



**COMMONWEALTH of VIRGINIA**  
**DEPARTMENT OF MEDICAL ASSISTANCE SERVICES**

600 East Broad Street, Suite 1300  
Richmond, VA 23219

September 18, 2008

Dear Prospective Vendor:

The Department of Medical Assistance Services (DMAS) is soliciting proposals from qualified and innovative health care auditing firms for Community Mental Health and Other Behavioral Health provider auditing services. Duties of the Contractor shall include performing audits of Outpatient Psychotherapy and Substance Abuse, Therapeutic Day Treatment, Mental Health Support Services, Intensive In-Home and Private Intermediate Care Facility for the Mentally Retarded (ICF-MR) in-state and out-of-state providers that participate in the Virginia Medicaid program. Additional provider classes may be added or substituted at a later date as deemed necessary by DMAS. Specific details about this procurement are in the enclosed Request for Proposal (RFP) 2008-07. Contractors must check the DMAS web site at [www.dmas.virginia.gov](http://www.dmas.virginia.gov) or check the eVA web site at [www.eva.virginia.gov](http://www.eva.virginia.gov) for any addendums or notices regarding this RFP.

The Commonwealth shall not pay any costs that any Contractor incurs in preparing a proposal and reserves the right to reject any and all proposals received.

Contractors are requested not to call this office. All issues and questions related to this RFP should be submitted in writing to the attention of:

Terri Harrison, Contract Monitor  
Program Integrity Section  
Department of Medical Assistance Services  
600 East Broad Street, Suite 1300  
Richmond, VA 23219

In order to expedite the process of submitting inquiries, it is requested that vendors submit any questions or issues by email in MS Word format to [RFP2008-07@dmas.virginia.gov](mailto:RFP2008-07@dmas.virginia.gov)

Contractors who wish to submit a proposal are required to submit a Letter of Intent which must be received by the Department no later than 2:00 PM local time on **October 1, 2008**. The prior submission of a Letter of Intent is a prerequisite for submitting a proposal; proposals shall not be accepted from Contractors who have not submitted a Letter of Intent by the deadline specified above. Letters of Intent shall be sent to:

Department of Medical Assistance Services  
Attention: William D. Sydnor  
600 East Broad Street, Suite 1300  
Richmond, VA 23219

Sincerely,

*William D. Sydnor*

William D. Sydnor  
Contract Management Director

Enclosure

## REQUEST FOR PROPOSALS

**Issue Date:** September 18, 2008

**Title:** Community Mental Health and Other Behavioral Health Provider Auditing Services

**Period of Contract:** An initial period of three years from award of contract, with provisions for three one year renewals.

All inquiries should be directed in writing via email in MS Word Format to:  
RFP2008-07@dmas.virginia.gov

Terri Harrison, Contract Monitor  
Program Integrity Section  
Department of Medical Assistance Services  
600 East Broad Street, Suite 1300  
Richmond, Virginia 23219

Deadline for submitting Letter of Intent and inquiries is **2:00 pm E.S.T. on October 1, 2008**

**Proposal Due Date:** Proposals will be accepted until **2:00 p.m. E.S.T. on November 6, 2008**

**Submission Method:** The proposal(s) must be sealed in an envelope or box and addressed as follows:

“RFP 2008-07 Sealed Proposal”  
Department of Medical Assistance Services  
600 E. Broad Street, Suite 1300  
Richmond, Virginia 23219  
Attention: William D. Sydnor

Facsimile Transmission of the proposal is not acceptable.

**Note:** This public body does not discriminate against faith-based organizations in accordance with the *Code of Virginia*, § 2.2-4343.1 or against an Offeror because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment.

In compliance with this Request for Proposal and to all conditions imposed therein and hereby incorporated by reference, the undersigned proposes and agrees to furnish the services contained in their proposal.

Firm Name (Print)	F.I. or S.S. Number
Address	Print Name
Address	Title
City, State, Zip Code	Signature (Signed in Ink)
Telephone	Date Signed
Fax Number	
eVA Registration Required	eVA Vendor #:
Check Applicable Status Corporation ----- Partnership ----- Proprietorship ----- Individual ----- Woman Owned ----- Minority Owned ----- Small Business ----- If DMBE certified, provide certification number:	

**COMMONWEALTH OF VIRGINIA**  
**DEPARTMENT OF MEDICAL ASSISTANCE SERVICES**  
**REQUEST FOR PROPOSALS**  
**FOR**  
**COMMUNITY MENTAL HEALTH AND OTHER BEHAVIORAL HEALTH**  
**PROVIDER AUDITING SERVICES**

**RFP 2008-07**

**ISSUED: September 18, 2008**

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## **RFP 2008-07: Community Mental Health and Other Behavioral Health Provider Auditing Services for the Program Integrity Division**

### **1. PURPOSE**

The Department of Medical Assistance Services (DMAS), hereinafter referred to as the Department or DMAS, is the single State Agency in the Commonwealth of Virginia that administers the Medicaid program under Title XIX of the *Social Security Act* and the Virginia State Child Health Insurance Program, known as the Family Access to Medical Insurance Security (FAMIS), under Title XXI of the *Social Security Act* for low-income people and children. These programs are financed by federal and State funds and administered by the State according to federal guidelines. Both programs include coverage of medical services for eligible Medicaid and FAMIS enrollees.

The Commonwealth of Virginia, Department of Medical Assistance Services, is hereby soliciting proposals from qualified and innovative health care auditing firms to establish a contract through competitive negotiation for the following community mental health and other behavioral health provider auditing services: Outpatient Psychotherapy and Substance Abuse, Therapeutic Day Treatment, Mental Health Support Services, Intensive In-Home and Private ICF-MR in-state and out-of-state providers that participate in the Virginia Medicaid program. Additional provider classes may be added or substituted at a later date as deemed necessary by DMAS. A qualified Contractor is one that can deliver the services requested in an efficient and effective manner while ensuring the highest standards of performance, integrity, clinical experience, customer service, and fiscal accountability.

**Fee-for-Service and Managed Care:** DMAS provides Medicaid to individuals through two programs: a program utilizing contracted managed care organizations (MCO) and fee-for-service (FFS), which is the standard Medicaid program. Although FAMIS is not a Medicaid program, it is provided through both the FFS and MCO delivery systems. The Contractor shall be responsible for auditing both in-state and out-of-state providers that provide services to both Medicaid and FAMIS recipients in the fee-for-service program. The Contractor shall not be responsible for auditing providers that participate in managed care plans, however, the Contractor shall have access to the MCO encounter data that may help identify trends in their data mining efforts. (Unless otherwise indicated, the fee-for-service program is referred to as the Virginia Medicaid program in this document.)

**Duration of Contract:** The duration of the contract resulting from this RFP is three years from the award of contract, with up to three one-year renewals. This contract may be renewed by the Commonwealth upon written agreement of both parties for up to three successive one-year periods, under the terms of the current contract, and at a reasonable time (approximately 90 days) prior to the expiration.

#### **1.1 Provider Auditing Services**

The Contractor shall perform audits of selected community mental health services Outpatient Psychotherapy and Substance Abuse, Therapeutic Day Treatment, Mental Health Support Services, Intensive In-Home and Private ICF-MR providers that participate in the Virginia Medicaid program. Additional provider classes may be added or substituted at a later date as deemed necessary by DMAS. The Contractor shall inform the provider of, and report to DMAS, any discrepancies (such as abusive billing practices and regulatory noncompliance) found during the audits. Extrapolation methodologies shall not be allowed; only actual audit findings shall be accepted. The Contractor shall allow providers a thirty-day period to supply any additional documentation that they would like a reconsidered of the audit findings. DMAS, in consultation with the Contractor, shall determine the service period to be audited. Recovery efforts resulting from audit findings shall be performed by the Department. The Department reserves the right to accept or reject any of the proposed recommendations for recovery from the Contractor. If the Contractor's audit findings identify overpayments that require recovery efforts by the Department or reveal that recovery efforts are warranted, the Contractor is responsible for:

1. Providing DMAS with sufficient information to validate or substantiate the claims in question;
2. Notifying the provider of the recovery amount in claim level detail;
3. Handling all reconsideration processes mandated by the agency's policies and procedures regarding recoveries; and
4. If the recovery action leads to any appeal proceedings, the Contractor shall devote necessary staff, time and assistance to the Department to include, but not limited to, the review of records, preparation of documentation, appearance and testimony at depositions and hearings.

Such services shall be included as part of the cost of this proposal and related contract.

## **1.2 Definitions**

The following terms when used in this RFP shall be construed and/or interpreted as follows, unless the context expressly requires a different construction and/or interpretation.

- **Annual:** For the purposes of this contract, annual shall be defined as within 90 calendar days of the effective contract date and effective contract renewal date.
- **Appeals:** Appeals by providers of identified overpayments resulting from audits that the Contractor has performed.
- **Audit:** Desk audit, on-site audit, or both performed by the Contractor to verify that the provider properly billed Virginia Medicaid for services rendered to Medicaid recipients. In addition, the Contractor may contact recipients for verification of services rendered and contact related professionals for verification that services were ordered.
- **Business Days:** Monday through Friday, 8:00 AM to 5:00 PM, Eastern Standard Time, unless otherwise stated.
- **Calendar Year:** January 1 through December 31.

- **Claims Data:** Files that contain payment data for services rendered to Medicaid recipients in the fee-for-service program.
- **Client, Recipient, Enrollee, Member or Participant:** An individual having current Medicaid/FAMIS Plus or FAMIS eligibility who shall be authorized by the Department to participate in the Virginia Medicaid program.
- **Community-Based Residential Services for Children and Adolescents Under 21 (Level A):** Community-Based Residential Services for Children and Adolescents under 21 are a combination of therapeutic services rendered in a residential setting. This residential service will provide structure for daily activities, psycho-education, therapeutic supervision, and psychiatric treatment to ensure the attainment of therapeutic mental health goals as identified in the treatment plan. The child/adolescent must also receive psychotherapy services in addition to the therapeutic residential services. Room and board costs are not included in the reimbursement for this service. Prior Authorization is required for Medicaid reimbursement. Only programs/facilities with 16 or fewer beds are eligible to provide this service. This service does not include interventions and activities designed only to meet the supportive non-mental health special needs, including but not limited to personal care, habilitation, or academic-educational needs of the recipient.
- **Contract Modifications:** - Any changes or modifications to the Contract that are mutually agreed to in writing by the Contractor and the Department or are mandated by changes in Federal or State laws or regulations as per Section 10.15.
- **Contract:** The signed and executed document resulting from this RFP, including all attachments or documents incorporated by reference.
- **Contractor/Offeror:** The entity that contracts with the Department, under the State Plan and in return for a payment, provides provider auditing services.
- **Crisis Intervention:** Crisis intervention services are mental health care, available 24 hours a day, seven days per week, to provide assistance to individuals experiencing acute mental health dysfunction requiring immediate clinical attention. The objectives are: to prevent exacerbation of a condition; to prevent injury to the recipient or others; and to provide treatment in the least restrictive setting.
- **Crisis Stabilization:** Crisis stabilization services are direct mental health care to non-hospitalized individuals (of all ages) experiencing an acute crisis of a psychiatric nature that may jeopardize their current community living situation. The goals are to avert hospitalization or re-hospitalization; provide normative environments with a high assurance of safety and security for crisis intervention; stabilize individuals in psychiatric crisis; and mobilize the resources of the community support system, family members, and others for ongoing maintenance, rehabilitation, and recovery.
- **Department:** The Virginia Department of Medical Assistance Services (DMAS).
- **Desk Review:** Records are submitted by the provider in either electronic or paper format and the review is conducted at the contractor's office or offsite location.
- **Effective Date:** The beginning of the contract period is the date the contract is signed.
- **Encounter Data:** Files that contain payment data for services rendered to Medicaid recipients enrolled in a managed care program.
- **Encryption:** A security measure process involving the conversion of data into a format that cannot be interpreted by outside parties.

- **Enrollment:** The determination by local department of social services or central processing unit of an individual's eligibility for Medicaid, FAMIS Plus or FAMIS and subsequent entry into the Virginia Medicaid Management Information System (VAMMIS).
- **Error Matrix:** Matrix of common errors per service type.
- **Extrapolation:** Methodology used to draw inferences or conclusions about an audit sample. The Department shall not utilize the extrapolation methodology.
- **Facility:** Any premises that are owned, leased, used or operated directly or indirectly by or for the Contractor or its affiliates for purposes related to this RFP or that are maintained by a subcontractor to provide services on behalf of the Contractor.
- **FAMIS Enrollee:** Persons enrolled in the Department's FAMIS program who are eligible to receive services under the State Child Health Plan under Title XXI, as amended.
- **FAMIS Plus Enrollees:** Children under the age of 19 who meet "medically indigent" criteria under Medicaid program rules, and who are assigned an aid category code of 90; 91 (under 6 years of age); 92 or 94. FAMIS Plus children receive the full Medicaid benefit package and have no cost-sharing responsibilities. Additionally, for the terms set forth in this Contract, FAMIS Plus and Medicaid enrollees shall be treated in the same manner.
- **Fee-for-Service:** A method of making payment for health services that specifies payment amounts for defined services, separate and distinct from managed care. The Contractor shall be responsible for auditing providers that participate in the Department's fee-for-service program.
- **Fiscal Year (State):** July 1 through June 30.
- **Fraud:** Intentional deception or misrepresentation made by a person or entity with the knowledge that the deception could result in payment of an unauthorized benefit or reimbursement.
- **Global Analysis:** A comprehensive review of the DMAS electronic claims database in an attempt to identify providers and recipients who potentially possess aberrant billing or utilization patterns.
- **Health Insurance Portability & Accountability Act of 1996 (HIPAA):** Title II of HIPAA requires standardization of electronic patient health, administrative and financial data; unique health identifiers for individuals, employers, health plans, and health care providers, and security standards protecting the confidentiality and integrity of individually identifiable health information past, present, or future.
- **Intensive Community Treatment:** Intensive Community Treatment (ICT) is an array of mental health services for adults with serious emotional illness who need intensive levels of support and service in their natural environment to permit or enhance functioning in the community. ICT has been designed to be provided through a designated multi-disciplinary team of mental health professionals. It is available either directly or on call 24 hours per day, seven days per week, 365 days per year.
- **Intensive In-Home :** Intensive In-Home Services for children/adolescents under age 21 are time-limited interventions provided typically but not solely in the residence of a child who is at risk of being moved into an out-of-home placement or who is being transitioned to home from out-of-home placement due to a documented medical need of the child. These services provide crisis treatment; individual and family counseling; and communication skills (e.g. counseling to assist the child and his parents to understand and practice appropriate problem-solving, anger management, and interpersonal interaction, etc.); case management activities and coordination with other required services; and 24-hour emergency response.

- **Implementation Date:** 30 days after the effective date of the contract.
- **Intermediate Care Facility for the Mentally Retarded (IFC/MR)** is a facility, licensed by the Department of Mental Health, Mental Retardation, and Substance Abuse Services (DMHMRSAS) in which care is provided to mentally retarded individuals who are not in need of skilled nursing care, but who need more intensive training and supervision than would be available in a rooming, boarding home, or group home; such facilities must comply with Title XIX standards, provide health or rehabilitative services, and provide active treatment to clients toward the achievement of a more independent level of functioning.
- **Managed Care Organization (MCO):** An entity that meets the participation and solvency criteria defined in 42 CFR Part 438 and has an executed agreement with the Department to provide services covered under the Medallion II and FAMIS programs. The Contractor shall not be responsible for auditing providers that participate in managed care plans.
- **Medicaid Enrollee:** For purposes of this contract, any person identified by the Department as being eligible for services due to enrollment in fee-for-service Medicaid. PCCM enrollees are considered fee-for-service enrollees. MCO enrollees are excluded from this contract.
- **Medicaid Fraud Control Unit (MFCU):** Within the Virginia Office of the Attorney General, the MFCU has the responsibility to conduct a statewide program for investigating and prosecuting fraud in the administration of the Medicaid program, the provision of medical assistance, or the activities of providers of medical assistance under the State Medicaid plan.
- **Medicare Part D Program:** This is the Medicare insurance coverage program that assists Medicare beneficiaries with paying for their prescription drugs. The program, which became effective on January 1, 2006, is also referred to as “Medicare prescription drug coverage.”
- **Mental Health Support Services:** Mental Health Support Services are training and supports to enable individuals to achieve and maintain community stability and independence in the most appropriate, least restrictive environment. These services may be authorized for six consecutive months. This program shall provide the following services in order to be reimbursed by Medicaid: training in or reinforcement of functional skills and appropriate behavior related to the individual's health and safety, activities of daily living, and use of community resources; assistance with medication management; and monitoring health, nutrition, and physical condition.
- **Monthly:** For the purposes of contract reporting requirements, monthly shall be defined as the 15th day of each month for the prior month's reporting period. For example, January's monthly reports are due by February 15th; February's are due by March 15th, etc.
- **On-site Review:** Contractor travels to providers' location and conducts the review of recipient records, scanning or copying only pertinent documentation to complete review at contractor's office or offsite location.
- **Outpatient Psychotherapy:** Services provided in a practitioner's office, mental health clinic, patient's home, or skilled nursing facility.
- **Preliminary Findings:** Stage in audit process before the final report when the provider is allowed to submit additional information that may mitigate findings.
- **Program Integrity Division:** The Division within the Department that is responsible for provider audits and reviews.
- **Protected Health Information (PHI):** Individually identifiable information, including demographics, which relates to a person's health, health care, or payment for health care.

HIPAA protects individually identifiable health information transmitted or maintained in any form or medium.

- **Provider:** An institution, facility, agency, person, corporation, partnership, or association approved by the Department which accepts as payment in full for providing benefits the amounts paid pursuant to a provider agreement with the Department.
- **Provider Classes:** All programs covered by DMAS are linked to specific provider class type. The class type allows the providers to perform and be paid for services in the specific program designated in their provider agreement.
- **Psychosocial Rehabilitation** : Psychosocial rehabilitation services are programs of two or more consecutive hours per day provided to groups of adults in a non-residential setting.
- **Residential Treatment Center (RTC):** A 24-hour-per-day specialized form of highly organized, intensive, and planned therapeutic interventions, which shall be utilized to treat severe mental, emotional, and behavioral disorders. All services must be provided at the facility as part of the therapeutic milieu. Services provided at three levels based on supports needed by recipient: A, B or C.
- **Quarterly:** For the purposes of contract reporting requirements, quarterly shall be defined as within 30 calendar days after the end of each quarter, unless otherwise specified by the Department.
- **Quarters:** Calendar quarters starting on January 1, April 1, July 1, and October 1.
- **Recipient:** See Medicaid enrollee, FAMIS enrollee.
- **Secure email:** The generic term that usually applies to sensitive email being passed over the Internet in some form of encrypted format.
- **Shall:** Indicates a mandatory requirement or a condition to be met.
- **State:** Commonwealth of Virginia.
- **Subject Matter Expert (SME):** Individuals who have superior knowledge of clinical, technical and DMAS policy/procedures within a specific clinical or technical area.
- **Substance Abuse Day Treatment for Pregnant Women:** Substance Abuse Day Treatment for Pregnant Women Services are comprehensive and intensive intervention services in a central location lasting two or more consecutive hours per day, which may be scheduled multiple times per week for pregnant and postpartum women with serious substance abuse problems for the purposes of improving the pregnancy outcome, treating the substance abuse disorder, strengthening the maternal relationship with existing children and the infant, and achieving and maintaining a sober and drug-free lifestyle.
- **Substance Abuse Residential Treatment for Pregnant Women:** Substance Abuse Residential Treatment for Pregnant Women services are comprehensive and intensive intervention services in residential facilities, other than inpatient facilities, for pregnant and postpartum women with serious substance abuse problems for the purposes of improving the pregnancy outcome, treating the substance abuse disorder, strengthening the maternal relationship with existing children and the infant, and achieving and maintaining a sober and drug-free lifestyle.
- **Therapeutic Behavioral Services (Level B):** Therapeutic Behavioral Services (Level B) are community based residential services for children and Adolescents under 21. These programs are a combination of therapeutic services rendered in a residential setting. This service will provide structure for daily activities, psycho-education, therapeutic supervision and psychiatric treatment to ensure the attainment of therapeutic mental health goals as identified in the individual service plan (plan of care). The child/adolescent must also receive

psychotherapy services in addition to the therapeutic residential services. Room and board costs are not included in the reimbursement for this service. Authorization is required for Medicaid reimbursement. Only programs/facilities with 16 or fewer beds are eligible to provide this service. This service does not include interventions and activities designed only to meet the supportive non-mental health special needs, including but not limited to personal care, habilitation or academic educational needs of the recipients.

- **Therapeutic Day Treatment:** Therapeutic Day Treatment for Children/Adolescents shall be provided in sessions of two or more hours per day in order to provide therapeutic medication education and management; opportunities to learn and use daily living skills and to enhance social and interpersonal skills (e.g. problem-solving, anger management, community responsibility, increased impulse control and appropriate peer relations, etc.); and individual, group, and family psychotherapy/counseling.
- **Utilization Management:** The process of evaluating the necessity, appropriateness, and efficiency of health care services against established guidelines and criteria.
- **Virginia Medicaid Management Information System (VAMMIS):** The medical assistance eligibility, enrollment, and payment information system of the Virginia Department of Medical Assistance Services.
- **Virginia Medicaid Policy:** Includes the State plan, regulations, manuals and Medicaid memoranda.

## **2. BACKGROUND**

Virginia, like many other states, is working to identify ways to monitor and control health care spending for the Virginia Medical Assistance Program. An effective audit program designed to identify abusive provider billing practices is one of the mechanisms the State has employed in an effort to contain costs and provide quality health care. Within DMAS, the Program Integrity Division (PI) is charged with the responsibility for protecting the Medicaid program from provider and recipient waste, fraud and abuse. Due to budget and staffing constraints, PI management has elected to outsource the auditing of certain provider types community mental health and other behavioral health providers. PI seeks a Contractor to review both in-state and out-of-state Outpatient Psychotherapy and Substance Abuse, Therapeutic Day Treatment, Mental Health Support Services, Intensive In-Home and Private ICF-MR providers that participate in the Virginia Medicaid program. Additional provider classes may be added or substituted at a later date as deemed necessary by DMAS. PI seeks a proposal to place its provider audit function at the cutting edge of efficiency and innovation.

DMAS is dedicated to providing all medically necessary care for Medicaid and FAMIS enrollees while addressing the need of Virginia taxpayers for fiscal responsibility. DMAS believes that a robust provider audit function is integral to meeting this goal and is a fundamental necessity in keeping spiraling health care costs associated with the program at bay. Additional information on the division is provided below.

### **2.1 Program Integrity Division**



The Program Integrity Division is responsible for identifying abusive and potentially fraudulent billing practices by the DMAS provider community. PI employs sophisticated data mining software (CS SURS - Client Server Surveillance and Utilization Review System, a proprietary product of U.P.I. Government Group, LLC) to identify providers who appear aberrant in relation to their peers. Aberrant providers are reviewed by desk and on-site audits. Corrective action plans for audited providers are developed based on audit findings. Providers who appear to have engaged in fraudulent activities are referred to the Medicaid Fraud Control Unit in the Attorney General's office for further investigation.

In an effort to improve its auditing capabilities, DMAS is interested in outsourcing some of its community mental health and other behavioral health provider auditing activities. Because the Program Integrity Division oversees community mental health and other behavioral health provider auditing activities, it will be responsible for administering this contract.

## **2.2 Community Mental Health and Other Behavioral Health Provider Enrollment Activities in the Virginia Medicaid Program**

Table 1 shows Medicaid enrolled provider activity during fiscal year (FY) 2007. (This information may not reflect all providers that are currently enrolled in one of the MCO programs.) Not all of these providers were active in the Virginia Medicaid program during FY 2007 (e.g. not all providers submitted reimbursement claims to DMAS for providing services to Medicaid recipients.) It should be noted that the number of providers presented in Table 1 and their total reimbursement amounts may vary from year to year.

<b>Table 1</b> <b>Community Mental Health Service Activities</b> <b>Fiscal Year 2007</b>				
<b>Service</b>	<b>Number of Unique Providers</b>	<b>Total Reimbursement Amount</b>	<b>Total Claims</b>	<b>Minimum Number of Audits to be Performed</b>
Outpatient Psychotherapy /Substance Abuse	2,396	\$10,466,100	258,349	21
Therapeutic Day Treatment	145	\$ 54,376,948	241,006	7
Mental Health Support Services	90	\$ 37,319,400	124,101	10
Intensive In-Home	166	\$ 92,927,569	131,337	27
Private ICF-MRs	29	\$ 40,278,327	5,002	5
Crisis Intervention *	57	\$2,255,888	15,131	**
Crisis Stabilization *	28	\$3,210,107	3,048	**
Intensive Community Treatment *	23	\$8,774,319	7,584	**
Psychosocial Rehabilitation	56	\$24,359,991	119,047	**
Substance Abuse Day Treatment for Pregnant Women *	4	\$716,880	1,178	**
Substance Abuse Residential Treatment for Pregnant Women *	3	\$36,264	50	**
<b>TOTAL</b>				<b>70</b>
<b>* Data stated is for Medicaid only and does not include FAMIS and Medicaid Expansion</b> <b>** Services can be added at a later date.</b>				

## **2.3 RFP Objectives**

To provide a contract for comprehensive community mental health and other behavioral health auditing services as required by the Program Integrity Division (PI) for providers;

To maximize efficiency and cost effectiveness in the Virginia Medical Assistance Program by identifying overpayments for community mental health and other behavioral health services that result from inappropriate billing by providers; as well as referring providers with fraudulent activities to the MFCU.

To identify patterns and trends in billing errors that will help DMAS improve its program management by avoiding future overpayments and improving health care management decisions;

To obtain, through a contract with a health care auditing firm, a group of highly skilled, technically competent, ethical, and professional personnel trained in auditing standards and have subject matter and clinical expertise; and

To ensure that the personnel assigned to the contract by the Contractor are trained in State and federal Medicaid laws and regulations and that these personnel shall consistently apply such laws and regulations when performing audits of selected Medicaid enrolled providers.

## **3. NATURE AND SCOPE OF SERVICES**

The Contractor shall be responsible for auditing both in-state and out-of-state community mental health and other behavioral health: Outpatient Psychotherapy and Substance Abuse, Therapeutic Day Treatment, Mental Health Support Services, Intensive In-Home and Private ICF-MR providers participating in the Virginia Medicaid program. Additional provider classes may be added or substituted at a later date as deemed appropriate by DMAS. These audit related duties shall include developing a process utilizing subject matter and clinical expertise to identify providers who appear to be engaged in abusive billing practices and regulatory noncompliance, completing both desk and on-site audits, and performing other data analysis activities as required. The Contractor shall not use extrapolation. The Contractor shall be responsible for informing all Medicaid providers of selected mental health or other behavioral health services and professional associations related to the providers of the outsourcing of audits. This notification shall include the purpose of the project, details of which services and regulations are going to be reviewed, type and format of reviews and the timeline for completing the reviews. The Contractor shall also be responsible for informing DMAS of audit results, conducting reconsiderations, and representing DMAS at informal and formal appeals of reported audit findings. The Contractor shall work in consultation with Department staff and as necessary with legal review by the Office of the Attorney General. The Contractor must also provide professional, technical, and clerical support as well as other related services as needed for the duration of the contract.

DMAS will be responsible for collecting any overpayments identified from the audits. The Contractor shall be responsible for sending the audit findings report and overpayment request letters to the providers, as well as handling reconsiderations and assisting in the appeal process.

The Contractor shall be paid monthly on a contracted fixed flat fee basis. The Department shall not offer or pay directly or indirectly any material inducement, bonus, or other financial incentive to the Contractor based on overpayments identified during the audits.

### **3.1 Program Administration**

The Contractor shall be responsible for ensuring that all assigned audit staff are familiar with the applicable State and federal laws, regulations and policies governing the Virginia Medical Assistance programs. The Contractor shall also be responsible for detecting patterns of overpayment abuse by specific providers using global analysis or error matrix, making referrals of such suspected abuse to the Division, conducting DMAS approved reviews and audits of providers identified as receiving overpayments (including associated on-site visits), sending overpayment letters, handling reconsiderations, and representing DMAS at resulting appeal proceedings (the Contractor should work in consultation with Department staff and as necessary with legal review by the Office of the Virginia Attorney General), and with making recommendations for preventative controls to DMAS. The Contractor shall be responsible for maintaining all auditing work papers (paper and electronic) and for disposing of information in accordance with the Department's approved records retention plan. The Contractor shall be responsible for providing and maintaining hardware and software needed to import DMAS' VAMMIS systems extracts in order to obtain claims and encounters data in accordance with applicable privacy and security standards, as well as having data mining analysis and software.

### **3.2 Goals of the Department**

- A contractual agreement with a responsible and responsive health care auditing firm with direct subject matter and clinical expertise in the behavioral health services.
- Identification and recovery of overpayments received by providers through abusive billing practices and regulatory noncompliance.
- Detection and reporting of fraudulent billing practices by providers.
- Cost avoidance through provider education and enhanced system edits.
- Consistent application of audit/verification procedures and State and federal laws and regulations and policies by trained and technically competent auditors.
- Generation of recoveries without extrapolation that exceeds at least twice the proposed contract costs per fiscal year

### **3.3 Audit Requirements and Scope**

With DMAS approval, the Contractor shall be responsible for selecting providers to be audited and determine the sample of fee-for-service claims records to be reviewed. If questionable billing practices are identified based on a review of the provider's claims files, the Contractor must also review the provider's encounter data (if the provider participates in an MCO program).

The Contractor shall use the encounter data as an aid to identify trends which could indicate potential fraud in the fee-for-service network.

The Contractor shall also be responsible for the following activities: providing provider orientation to the audit process, conducting audits of Medicaid providers that may include either desk or on-site audits or both (the Contractor shall propose to DMAS which audit procedure is most appropriate to achieve the objective of the review); contacting recipients and providers for verification of services rendered; contacting related professionals for verification that services were ordered; reviewing records; conducting reconsiderations, and providing support during any resulting appeals litigation through document preparation and witness testimony.

The Contractor shall be required to analyze and review data to identify overpayments. Contractors are encouraged to incorporate in their proposals new and proven techniques or approaches that have been found or are expected to be successful in identifying billing errors. At a minimum, these services shall include, but are not limited to, the following:

1. Implementation of a data mining system to identify providers to be audited based on their payment and utilization patterns.

The system should be capable of contrasting providers with their peers in order to profile billing and utilization patterns. The system should also be capable of producing both individual profiles and management reports (i.e. averages, standard deviations, and frequency distributions for each item reported). In addition, the system should be capable of profiling providers under a variety of classification types, such as national drug codes (NDCs) or medical common procedural terminology codes (CPT). Contractors shall utilize a random sample for the data analysis and review and identify its analysis software.

Contractors shall provide the Division with global analysis and error matrix issues, based on industry knowledge, experience or trends.

2. For the provider types being audited, the Contractor must:
  - Prepare for the Department's approval an audit plan, audit methodology, and error matrix to be used for all audits of a specified provider type. These documents shall be due to the Department within 30 days of the implementation date. The Contractor shall use their experience in performing such audits to estimate the potential time involved and state timeframes for completion of audits. The methodology used should be part of the Contractor's response to this proposal.
  - For each provider type, DMAS specifies that the Contractor shall perform the following minimum number of audits per 12 month time period as listed in Table 1 of Section 2.2. The Contractor shall also conduct one global analysis issue per contract year. The Contractor, as part of their response to this RFP, shall propose global analysis reviews based on industry knowledge, experience or trends. These numbers are current agency projections for the first year of the contract and may not necessarily be indicative of expected audit quotas in subsequent contract years. Projected minimal audit quotas are

subject to change based upon cumulative audit data. Any changes to the audit quotas shall be negotiated by the parties in good faith and considered a contract modification under section 10.15 of this RFP.

- The Contractor's error findings should be identified on the claim level, substantial and clearly defined.

3. For the audits being conducted, the Contractor must:

- Analyze and rank the provider by services.
- Obtain DMAS approval of provider list and schedule.
- Generate and send DMAS approved letters to the providers notifying them of the impending audits.
- Perform desk and on-site reviews of providers, as needed. Contractors should propose, as part of their response to this RFP, how many audits they believe will be on-site or desk based on their prior experience auditing the services and provider types in question. However during the first year DMAS request a minimum of 50% on-site audits.
- Select records based on the Contractors experience to audit using either random sampling or judgmental sampling techniques, not extrapolation.
- When conducting an on-site the contractor must schedule a date in conjunction with the provider and confirm the date in writing at least eight business days prior to the review.
- When conducting a desk review, the contractor shall request documentation be submitted by the provider within 10 business days from the date of the requesting letter.
- Hold an entrance interview with the audited provider at the commencement of the review to inform the provider of the review process. Entrance conferences for desk reviews may be conducted by telephone.
- Requests for medical records shall be in writing and directed to a specific person and confirmed address. Medical record documentation requests to providers via mail are sufficient for this process. The provider has the option to provide either copies of medical record documentation or to produce the records for inspection at their site. Copies of medical records may be mailed out of state for review. Medical records requested for review shall be provided to the Department or its representative at the expense of the provider, including postage and copying expenses.
- Perform a review of necessary records within 30 calendar days after Contractor's receipt of those records (whether on-site or desk review). Conduct a review of claims data and medical records for any claims warranting a more detailed evaluation. This comprehensive claims review shall be conducted by health professionals with experience in the relevant fields. The Contractor should propose the staff to conduct the medical

record reviews stating their experience in behavioral health care. The reviews in question should focus on non-clinical issues. The need for physician reviewers should be minimal but a validly licensed MD should be readily available.

- Hold an exit interview with the audited provider at the conclusion of the review to discuss proposed audit findings and adjustments. Exit conferences for desk reviews may be conducted by telephone.
  - Prepare a preliminary findings report within 10 business days after completing a review of the necessary medical records and submit to the Department.
  - The preliminary findings report shall identify each potential finding at the claim level with detailed error code descriptions citing appropriate manual and regulation citations.
  - The preliminary report shall be in an electronic format that is able to be edited and manipulated by the Department. Once approved, the final copy shall be sent to the provider and sent to the Department in a format that can not be edited.
  - Accept additional documentation and review request submitted by the provider. Prepare a reconsideration audit report, approved by DMAS, to providers within 30 business days following receipt of additional records detailing reconsideration audit results.
  - Provide necessary testimony and defend every audit at any appeal proceedings resulting from the audits at no additional cost to the Department. The Contractor must defend every appealed audit by providing the necessary witness (es) to fully explain what action was taken, why and upon what basis in law and Medicaid policy. This requires preparation of the case summary, pre-hearing/conference discussions with the informal appeals agent and testimony at the informal conference. Additionally, if the case proceeds to the formal level, the Contractor's witness(es) shall meet with the formal appeal representative, review the documentary evidence submitted in the formal case summary, prior to its submission, and attend and testify if necessary at the formal hearing. As the audit results are determined by the quality and quantity of audits performed by the Contractor, DMAS cannot predict the number of appeals that shall be filed or number of hours requiring these essential Contractor services.
4. For the purposes of managing the Contractor's performance, the Contractor must:
- Prepare a monthly report summarizing the effectiveness of its efforts.
  - Prepare and submit to the Department by the 15<sup>th</sup> of each month, a report detailing the status of all audits as of the last day of the preceding month.
5. The Contractor shall produce accurate audit reports within the timeframes. Audit reports containing a material error must be resubmitted to DMAS. A material error is any error set forth in the report that impacts the recommended overpayment amount, any procedural auditing defect that impacts the validity of the audit, validity of the audit findings, or recoverability of an overpayment. Material errors shall not include disagreement on judgment

calls, errors based on incomplete or inaccurate information provided to the auditors, so long as the decisions were made in consultation with Department representatives. The Contractor shall provide a corrected report within 10 days of the notification of the error.

The Contractor shall provide a detailed project plan that will define the delivery time for each component activity of the contract. The Contractor shall provide a schedule indicating the dates the audits will be performed and will advise DMAS of the completion of each audit.

The total overpayment amount shall be reported to DMAS on a monthly basis. The Contractor shall use guidelines established by DMAS to determine the amount of the overpayment. As part of their response to this proposal, the Contractor shall describe typical discrepancies and overpayment types. Prior to reporting, DMAS shall certify that the Contractor overpayment amount was established within the appropriate guidelines.

6. The Contractor shall be required to accommodate and incorporate Departmental plans, policies and directives into its performance of the services required by this RFP and resulting contract. It is the Contractor's responsibility to be familiar with all applicable State and federal laws, regulations, policies and requirements and to ensure compliance with such.
7. Contractors shall, as part of the response to this RFP, elaborate on the skill and experience in using electronic data mining technology proposed to be used for the claims analysis. Describe the skill and experience in identifying overpayments for recovery from behavioral health care providers, other state Medicaid programs, workers' compensation carriers, health insurance companies and/or third party administrators for these service types. Contractors shall, as part of the response to this RFP, describe in detail the proposed approach for accomplishing the claims review and analysis, including the tasks, listed above. Identify the essential elements for data analysis and review and provide any new techniques for accomplishing the purposes of this RFP.
8. Contractors shall provide samples of their desk and on-site audit completed reviews. Describe alternative and/or additional steps that may be considered if more in-depth review is undertaken. Include a sample medical record request, reconsideration and appeal letter.
9. Discuss the incorporation of Department directives. List all relevant experience, as described above, in the last three years.

### **3.4 Overpayment and Findings Letter and Provider Appeals**

When the Contractor has identified potential findings, it shall inform the provider by letter of the findings amount identified as an overpayment.

The first letter shall clearly identify the errors and document nationally recognized references and/or specific Departmental rule violations for each identified error. The letter shall offer the provider the opportunity to submit additional documentation by requesting a reconsideration of the findings.



When the review has been completed, the Contractor shall issue a findings letter. This letter shall include a statement that the Department's Fiscal Division shall pursue measures of recovery offsetting future payments. The Contractor shall inform the provider of the opportunity to appeal. Letters shall clearly identify the time for making an appeal and identify pertinent rules. Each letter template is required to be reviewed and approved prior to implementation.

The Contractor is expected to use the findings letters as an opportunity to educate providers on errors being made and methods to avoid them.

The Contractor is required to attend all informal and formal proceedings, including the Administrative Law Judge and all court proceedings as determined by DMAS or the OAG which result from recovery efforts by the Contractor.

Contractors shall, as part of the response to this RFP, provide examples of an overpayment, reconsideration, and findings letter to be sent to a provider, and outline methods proposed to identify and communicate mechanisms available to providers seeking clarification and/or informal meetings with the Department and Contractor.

### **3.5 Appeals Representation**

The Contractor shall assist DMAS by presenting the Department's position in the administrative appeals process in conjunction with appeals by providers of identified overpayments resulting from audits that the Contractor has performed. In addition to the reconsideration process, DMAS has two levels of administrative appeals generally referred to as the informal level and the formal level. At the informal level the Contractor prepares the DMAS appeal summary and represents DMAS at an informal conference with the provider before a DMAS employee Appeals Agent. At the formal level, the Contractor assists DMAS staff counsel in preparing the case summary and acts as a witness at a hearing before a hearing officer as appointed by the Virginia Supreme Court.

Upon receipt of notification of an appeal by the Department, the Contractor shall prepare and submit appeal summaries to the DMAS Appeals Division, the DMAS Contract Monitor, and the provider involved in the appeal in accordance with required time frames. The Contractor shall mail summaries to the providers in a timeframe established by the Department. The Contractor shall comply with all State and federal laws, regulations, and policies regarding the content and timeframes for appeal summaries. Failure to submit appeal summaries with the required information within the required timeframe shall result in the Contractor being liable for any costs that DMAS incurs as a result of the Contractor's noncompliance. The Contractor shall attend and defend the Contractor's decisions at all appeal hearings or conferences, whether informal or formal, or whether in person or by telephone, or as deemed necessary by the DMAS Appeals Division. Contractor travel or telephone expenses in relation to appeal activities shall be borne by the Contractor. Failure to attend or defend the Contractor's decisions at all appeal hearings or conferences shall result in the Contractor being liable for any costs that DMAS incurs as a result of the Contractor's noncompliance.

### **3.6 Contractor Responsibilities**

- A. Individuals Assigned: The Contractor shall be required to assign dedicated staff with direct subject matter and health care audit expertise (including a dedicated project manager) to perform the audits on an on-going basis to ensure consistency of knowledge and application of DMAS' policies and regulations during the contract period. The Contractor must specify the names, qualifications, professional level, and number of individuals assigned to this project. DMAS' dissatisfaction with the performance of the assigned individual(s) may be grounds for cancellation of the Contract. The Contractor shall demonstrate the capability to function independently of the Department is the performance of this contract.
- B. Conferences with DMAS: The Contractor shall be prepared to attend audit conferences as requested by DMAS. The Contractor shall bear the expense of these conferences.
- C. Exit Conference: The Contractor shall hold an exit interview with the audited provider at the conclusion of the review to discuss audit findings and proposed adjustments. Exit conferences for desk reviews may be conducted by telephone.
- D. Work papers: On request, the Contractor shall furnish to DMAS copies of all adjustments recommended and all audit work papers and correspondence for each provider review. The Contractor shall be required to maintain and store all original work papers and correspondence based on DMAS' approved records retention plan and follow the approved disposal procedures.
- E. Management Reports: The Contractor shall provide to the audited provider a written statement of those matters which came to the auditors' attention in the performance of the audit, including comments on the auditing procedures, systems of internal control, and any other matters which would reflect on the fairness of billing statements as reported by the provider. The Contractor shall not be responsible for auditing/reviewing the provider's accounting system of internal controls.
- F. Confidentiality of Audit Procedures: The Contractor shall maintain the confidentiality of the provider, of the audit program steps and procedures, and of the data analyzed in the performance of the audits.
- G. Contractor's Time Requirements: The Contractor shall specify the lead time necessary for scheduling audits and a reasonable turnaround time must be stipulated (specify days or weeks). DMAS shall determine the reasonableness of these time frames. The audits, including reconsideration, must be completed in a contractual year.
- H. Error Matrix: The Contractor shall provide to the Department an error matrix as well as auditing methodology.
- I. Time Summary: The Contractor shall agree to submit to DMAS, a time summary of the total hours expended on each audit step or procedure, including time spent in systems administration, data analysis, and appeals at the conclusion of each audit.

- J. Confidentiality of Medicaid Information: Pursuant to the Health Insurance Portability and Accountability Act (HIPAA) of 1996, and all other applicable state and federal laws, the Contractor shall protect the confidentiality of all Virginia Medical Assistance Program clients and other materials that are maintained in accordance with this contract. The Contractor shall execute a DMAS HIPAA Business Associate agreement. Except for officially approved purposes directly connected with the administration of this contract, no information about (or obtained from) any client, in the possession of the Contractor, shall be disclosed to any party other than the Department in a form that identifies the client, without prior written consent of the client or a minor's parent or guardian. The Contractor shall modify and maintain comprehensive confidentiality policies and procedures as approved by the Department. The Contractor shall maintain the confidentiality of Medicaid information in accordance with the following:
1. The Contractor agrees to ensure that access to Medicaid information shall be limited to the Contractor. The Contractor shall take measures to prudently safeguard and protect unauthorized disclosure of the Medicaid information in its possession. The Contractor shall establish internal policies to ensure compliance with federal and State laws and regulations regarding confidentiality. In no event shall the Contractor provide, grant, allow, or otherwise give, access to Medicaid information to anyone without the express written permission of the Director of DMAS. The Contractor assumes all liabilities under both State and federal law in the event that the information is disclosed in any manner in violation of any applicable laws.
  2. Upon the Contractor receiving any requests for the Medicaid information from any individual, entity, corporation, partnership or otherwise, the Contractor must notify DMAS within twenty-four (24) hours. The Contractor shall ensure that there will be no disclosure of the data except through DMAS. The Department will treat such requests in accordance with its policies.
  3. In cases where the information requested by outside sources is releasable under the Freedom of Information Act, or is requested by subpoena, search warrant, or other court order, as determined by DMAS, the Contractor shall provide support for copying and invoicing such documents and records and shall provide access to such records in a time and manner such that DMAS can meet any applicable timeframes.
- K. Computer Equipment: The Contractor shall be responsible for providing all computer equipment necessary to perform the services required under RFP 2008-07, including dial-up capability in accordance with DMAS specifications.
- L. Training: The Contractor shall be prepared to have staff members who are assigned to perform desk audits and/or on-site audits attend on-site training and orientation programs provided by DMAS, if necessary as the Contractor must have subject matter and clinical expertise with direct service and audit experience. DMAS anticipates the number of on-site hours of training will be minimal. Because the contract is fixed-fee, the Contractor shall not bill DMAS for staff time spent in such training and orientation programs.

- M. HIPAA Requirements: To the extent that the Contractor uses one or more subcontractors or agents to provide services under this Contract, and such subcontractors or agents receive or have access to Protected Health Information, each such subcontractor or agent shall sign a Business Associate Agreement with the Contractor that complies with HIPAA. The Contractor shall ensure that any agents and subcontractors to whom it provides PHI received from the Department (or created or received by the Contractor on behalf of the Department) agree in writing to the same restrictions, terms, and conditions relating to PHI and other confidential information that apply to the Contractor pursuant to this Contract.
- N. The Department shall have the option to review and approve all such written agreements between the Contractor and its agents and subcontractors prior to their implementation.
- O. Recovery efforts resulting from identified audit findings will be performed by the Department.
- P. Post reconsideration: When audit findings result in recovery efforts by the Department or reveal that recovery efforts are warranted, the Contractor is responsible to provide DMAS with sufficient information to validate or substantiate the claim for recovery. The Contractor should also submit provider claims, and any other information that would assist the Department in identifying and potentially adjusting claims data through the Virginia Medicaid management information System (VaMMIS). The Department reserves the right to accept or reject any of the proposed recommendations for recovery from the Contractor.

### **3.7 Scope of Work Modifications**

DMAS reserves the right to renegotiate payment under this contract if the Department determines that additional provider classes should be subject to auditing under this RFP. DMAS will notify the Contractor of any revisions (additions or substitutions) to the provider classes subject to this RFP at least 90 days prior to the effective date of the revisions. The minimum number of audits expected per provider class is current agency projections for the first year of the contract and are not necessarily indicative of expected audit quotas in subsequent contract years. The Contractor, based on their experience, may propose additional audits as part of the proposal. Projected minimal audit quotas are subject to change based upon cumulative audit data. Any changes to the audit quotas shall be negotiated by the parties in good faith and considered a contract modification under section 10.15 of this RFP.

### **3.8 Virginia Medicaid Management Information Systems (VAMMIS) Requirements**

In response to this RFP, the Contractor must demonstrate the ability to interpret, map and load into the contractor's electronic systems data received through data extracts from the Virginia Medicaid Management Information System (VAMMIS) operated by the Department's fiscal agent, First Health Services Corporation (FHSC). The Contractor will also be required to provide data and other information to the Department (as required) to be used for monitoring and analysis. The Contractor must successfully test all aspects of data transference.

#### **3.8.1 Contractor's Data Transference from the Fiscal Agent**

The Contractor may not transmit PHI over the Internet or any other unsecured or open communication channel unless such information is encrypted or otherwise safeguarded using procedures no less stringent than those described in 45 CFR § 164.308(e). If the Contractor stores or maintains PHI in encrypted form, the Contractor shall, promptly at the Department's request, provide the Department with the software keys to unlock such information.

The Department will provide technical assistance to the Contractor to ensure that appropriate transference of data occurs from the fiscal agent.

All expenses incurred in establishing the data transference between the Contractor and the Department's fiscal agent shall be the responsibility of the Contractor. The contractor must have successfully loaded the electronic data received from the fiscal agent at least 30 days prior to implementation.

The Contractor is expected to comply with the Health Insurance Portability and Accountability Act (HIPAA) Final Rules and Standards related to the electronic transactions of data between the Contractor and the Department's fiscal agent, electronic correspondence between the Contractor and the Department, and transmission within and out of the Contractor's corporate network including any ISPs. These HIPAA standards involve:

- 1) The Privacy of Individually Identifiable Health Information;
- 2) Standards for Electronic Transactions; National Standards for Employer Identifiers;
- 3) National Standards for Health Care Provider Identifiers; and the
- 4) HIPAA Privacy and Security Regulations.

### **3.8.2 Interfaces**

The Contractor shall not have direct access to VAMMIS. The Contractor is expected to conduct all processing on its own hardware and software and must be able to receive and load the following data files to be used for the sole purpose of auditing functions for Virginia Medicaid: provider, eligibility, and encounter and claims data.

From the interfaces provided, the Contractor shall complete all data mapping necessary to perform auditing functions and submit information to the Department and respond to information provided by the Department at no cost to the Department. This will consist of a cross-reference map of required VAMMIS data and Contractor system data elements and data structures. The Department will use existing data formats (to be provided to those interested parties that submit the required letter of intent) as much as reasonably practicable as determined by DMAS and make the data formats available to the Contractor upon award.

#### **3.8.2.1 Provider Data**

The Contractor shall receive (pull) and process provider eligibility information from the Department's fiscal agent on a quarterly basis and as needed. This data will be a complete file replacement. An initial provider eligibility data load is to be completed during the implementation period, and all subsequent quarterly processing would replace this initial data. DMAS will provide the data in the specified file format and the format shall be non-negotiable.

### **3.8.2.2 Recipient Data**

The Contractor shall receive (pull) and process recipient eligibility information from the Department's fiscal agent on a quarterly basis and as needed. This data will be a complete file replacement. An initial recipient eligibility data load is to be completed during the implementation period, and all subsequent quarterly processing would replace this initial data. DMAS will provide the data in the specified file format and the format shall be non-negotiable.

### **3.8.2.3 Claims and Encounter Data**

The Contractor shall receive (pull) and process paid claims and encounter data on a quarterly basis for in-state and out-of-state community mental health and other behavioral health providers from the Department's fiscal agent. This data will include all paid claims and encounters processed within the determined period. No other claims data will be made available for relationship analysis. An initial data load is to be completed during the implementation period, and all subsequent processing would supplement this initial data load (not complete file replacement). The Contractor, as part of their response to this RFP, shall describe the number of months of historical data they will need to meet the terms of the contract. DMAS will provide the data in an existing file format and the format shall be non-negotiable.

### **3.8.3 Contractor Electronic Access to Department Data**

The Contractor shall "pull" all data as described in Section 3.8.2 from the VAMMIS fiscal agent in a HIPAA compliant fashion by secure electronic file transfer protocol (FTP). The fiscal agent will require the execution of a trading partner's agreement for the FTP connection. The Contractor shall describe in detail their secure FTP connectivity. All expenses incurred in establishing connectivity between the Contractor and FHSC shall be the responsibility of the Contractor. The FTP access to the fiscal agent must be fully operational thirty days prior to implementation.

#### **Secure FTP Requirements**

The Contractor is to access the FHSC Secure File Transfer Server over the Internet. This process supports the FTPS (SSL FTP/AUTH SSL) protocol to secure all communications between the Contractor and the server. An area on the server will be created for the Contractor to get files.

FHSC supports Secure Sockets FTP over the Internet that complies with RFC 959, 1123, and 2228. The Contractor is required to use a 128-bit SSL client software package, at the Contractor's expense that supports passive mode. FHSC also supports PGP.

### **3.8.4 Contractor Database and Processing System**

In addition, the Contractor must provide DMAS with remote access (read-only) to the Contractor's computer system with respect to all Virginia Medicaid audit requirements/activities. This database shall be the property of the Department. In order to meet information system

requirements and to support the timely provision of ad hoc report requests that may be made by the Department, the Contractor shall maintain a HIPAA compliant database, in a format acceptable to the Department and utilizing the MMIS provider, recipient, and claims and encounter data received via the FTP process. The database shall be capable of maintaining and recording participant Protected Health Information (PHI) for the Department's auditing functions; and retrieving data on a short notice. Data stored in the database shall be current on a daily basis, based on the updates received from the Department's fiscal agent and the Contractor's interaction with that data and should be routinely backed up either manually or with appropriate software.

The Contractor database and processing system shall ensure the timeliness and accuracy of data used in the business processes for final auditing determinations based on the Department's rules and regulations. This system shall be capable of allowing for future growth in service volume.

Although the Contractor will maintain the database and processing system at their facility, DMAS will have access to the database and the MMIS specific audit data stored in the Contractor's database shall be the property of the Department.

### **3.8.5 DMAS Remote Access/Email Communications**

For transfer of HIPAA Protected Health Information via email communications, DMAS requires that the Contractor use a HIPAA-compliant secure email form of communication. DMAS recommends one of the following solutions:

- End to End (Contractor's email system to DMAS Internet email appliances), email communications using the Transport Layer Security (TLS) protocol.
- Private communications line between Contractor and DMAS with email redirection across it.
- Contractor usage of the DMAS Tumbleweed secure email system (restrictions and guidelines will apply).

### **3.8.6 Web Provider Access**

If the Contractor allows providers to remotely access and respond to audit inquiries through the web, the Contractor's function must be in a secured environment using an application via a web browser from the provider's computer/workstations with the same standards designated for DMAS.

### **3.8.7 Communication Plan**

The Contractor shall be expected to provide DMAS with a written Communications Plan and flow diagram to include communications security that describes the use of data that will be sent to DMAS or FHSC or reside in the custody of the Contractor and how that data is accessed. The Contractor must submit the initial Communications Plan to the Department 30 days before date of implementation and must include a connectivity flow diagram. If any changes occur during the contract period, the Contractor must submit an updated Communications Plan to the Department within 30 days after the change occurred and must include an updated connectivity flow diagram.

### **3.8.8 Systems Readiness Review**

The Contractor shall work with the Department to ensure that the Contractor's processing system satisfies the functional and informational requirements of Virginia's auditing program. The Contractor shall assist the Department in the analysis and testing of the auditing information transfer prior to the date of implementation. The Contractor shall provide any software or additional communications network required for access at the Contractor's expense.

### **3.8.9 System Security**

The Contractor shall apply recognized industry standards governing security of State and Federal Automated Data Processing systems and information processing. At a minimum, the State requires the Contractor to conduct a security risk analysis and to communicate the results in an Information Security Plan. The risk analysis shall also be made available to appropriate Federal agencies.

The following specific security measures should be included in the system design documentation and operating procedures:

- Computer hardware controls that ensure acceptance of data from authorized networks only.
- At the Contractor's central facility, placement of software controls that establish separate files for lists of authorized user access and identification codes.
- Manual procedures that provide secure access to the system with minimal risk.
- Multilevel passwords, identification codes or other security procedures that must be used by State agency or Contractor personnel.
- All Contractor database software changes related to this contract may be subject to the Department's approval prior to implementation.
- System operation functions must be segregated from systems development duties.

The Information Security Plan document must be delivered to the Department 30 days before date of implementation. If any changes occur during the contract period, the Contractor must submit an updated Information Security Plan to the Department within 30 days after the change occurred.

### **3.8.10 Disaster Preparedness and Recovery at the Processing Site**

The Contractor must submit a copy of its Business Continuity/Disaster Recovery plan for its processing system. If requested, test results of the plan must be made available to the Department. The plan must be tested before the implementation date and must meet the requirements of any applicable state and federal regulations, and of the Department. The Contractor's Business Continuity/Disaster Recovery Plan must include sufficient information to show that it meets the following requirements:

- Documentation of emergency procedures that include steps to take in the event of a natural disaster by fire, water damage, sabotage, mob action, bomb threats, etc. This documentation must be in the form of a formal Disaster Recovery Plan. The Contractor shall apply recognized industry standards governing Disaster Preparedness and Recovery including the



ability to perform all functions required in this RFP in the event that the central site is rendered inoperable. Additionally, the Contractor's disaster plan must include provisions in relation to the telephone number(s).

- Employees at the site must be familiar with the emergency procedures.
- Smoking must be prohibited at the site.
- Heat and smoke detectors must be installed at the site both in the ceiling and under raised floors (if applicable). These devices must alert the local fire department as well as internal personnel.
- Portable fire extinguishers must be located in strategic and accessible areas of the site. They must be vividly marked and periodically tested.
- The site must be protected by an automatic fire suppression system.
- The site must be backed up by an uninterruptible power source system.

The Business Continuity/Disaster Recovery Plan document must be delivered to the Department 30 days before implementation.

### **3.9 Staffing Requirements**

The Contractor must submit a detailed description of the staffing plan, which describes the types of personnel who shall be hired to handle audits, how staff shall be compensated (hourly, wage, temporary, part-time), and how the staff shall be supervised. This section shall also include a description of the Contractor's plan for staff training, including cross training of staff, components and length of training curriculum, a plan for on-going training, and a proposal of a Training Guide or Procedures Manual. The staffing plan must emphasize efficiency and flexibility.

The Contractor shall not have an employment, consulting or any other agreement with a person that has been debarred or suspended by any federal agency for the provision of items or services that are significant and material to the entity's contractual obligation with the State.

The staffing plan covered by this RFP must be capable of fulfilling the requirements of this RFP. A single individual may not hold more than one (1) position unless otherwise specified. The minimum staff requirements are as follows:

1. The Contractor shall assign a Project Manager to this project. The assigned project manager shall be approved by DMAS. The Project Manager shall be the single contact accountable for contract performance, invoicing, data submission, and reporting to the Department. The Project Manager shall be available for coordination with the Department by telephone on a daily basis and for status and issue resolution meetings at least on a weekly basis.
2. The Contractor shall use qualified reviewers that are familiar with Virginia laws and practice requirements related to professional standards, reimbursement, claims analysis, and medical record requests. A qualified medical physician with a valid Virginia license shall be available for medical necessity determinations or peer to peer counseling as

needed. A qualified, licensed person with clinical behavioral health experience must be available.

3. The Contractor shall include resumes of key personnel, such as the Project Manager, mental health expert, and lead auditors with subject matter and clinical expertise, and lead reviewers. If key personnel have not been identified, include a position description for each vacant position. The resumes of key personnel shall include:
  - a. Experience with Contractor, including applicable dates;
  - b. Relevant education, experience, and training, including applicable dates;
  - c. Name, positions, titles, and telephone numbers of persons who can give information on the individual's experience and competence;
  - d. Percentage of time to be devoted to this project; and
  - e. The name of the customer and a brief description of the individual's responsibility for each project referenced in a resume.

Auditors and data analysts may be located outside the state, but shall be required to be present, as needed, at relevant appeal proceedings and some Departmental meetings. Telephonic attendance is sufficient for most Departmental meetings. The organization chart shall include an indication of which reviewers will be located outside of Virginia.

At the Department's request, staff considered not to be qualified to meet the needs of the program or otherwise detrimental to the successful completion of the contract, shall be withdrawn.

If any member of the project management team, as identified in the Contract, becomes unavailable for any reason, the Contractor shall advise the Department immediately, and shall provide an expected timeline for the re-hire. The Department reserves the right to approve or reject rehires to project management level positions.

Failure to maintain the required staffing level to meet contract requirements shall be considered a material breach of the contract and may result in cancellation of the contract.

### **3.10 Subcontractors**

#### **3.10.1 Legal Responsibility**

The Contractor shall be responsible for the administration and management of all aspects of this RFP and the audit program covered hereunder. If the Contractor elects to utilize a subcontractor, the Contractor shall ensure that the subcontractor shall not enter into any subsequent agreement or subcontracts for any of the work contemplated under the subcontract for purposes of this RFP, without prior approval of the Department. No subcontract or other delegation of responsibility shall terminate or reduce the legal responsibility of the Contractor to the Department to ensure that all activities under this RFP are carried out.

#### **3.10.2 Prior Approval**

All subcontracts, amendments, and revisions thereto must be approved in advance by the Department. All subcontracts shall be maintained in accordance with the applicable terms of this RFP. Once a subcontract has been executed by all of the participating parties, a copy of the fully executed subcontract shall be sent to the Department within 30 days of execution.

### **3.10.3 Notice of Subcontractor Termination**

When a subcontract that relates to the provision of audit program services is being terminated between the Contractor and a subcontractor, the Contractor shall give at least thirty (30) days prior written notice of the termination to the Department. Such notice shall include, at a minimum, a Contractor's intent to change to a new subcontractor for the provision of said services, an effective date for termination and/or change, as well as any other pertinent information that may be needed. In addition to prior written notice, the Contractor shall also provide the Department with a transition plan, when requested, which shall include, at a minimum, information regarding how continuity of the project will be maintained. The Contractor's transition plan shall also include provisions to notify impacted or potentially impacted providers of the change. The Department reserves the right to require this notice requirement and procedures for other subcontracts if determined necessary upon review of the subcontract for approval.

### **3.10.4 Notice of Approval**

Approval of subcontracts shall not be considered granted unless the Department issues its prior approval in writing (to include e-mail). The Department may revoke such approval if the Department determines that the subcontractors fail to meet the requirements of this RFP.

### **3.10.5 HIPAA Requirements**

To the extent that the Contractor uses one or more subcontractors or agents to provide services under this Contract, and such subcontractors or agents receive or have access to protected health information, each such subcontractor or agent shall sign a Business Associate Agreement with the Contractor that complies with HIPAA. The Contractor shall ensure that any agents and subcontractors to whom it provides PHI received from the Department (or created or received by the Contractor on behalf of the Department) agree in writing to the same restrictions, terms, and conditions relating to PHI that apply to the Contractor pursuant to this Contract. The Department shall have the option to review and approve all such written agreements between the Contractor and its agents and subcontractors prior to their effectiveness.

## **3.11 Implementation and Project Plan**

Administration of the Community Mental Health and Other Behavioral Health Audit Program by Contractor shall begin on February 13, 2009 ("Implementation Date"). Payment to Contractor as provided in Section 7 (Payments to the Contractor) of this Contract shall begin upon implementation. The Contractor shall not be compensated for any expenses incurred prior to the implementation date.

The Contractor shall submit a preliminary implementation plan as part of the response to this RFP. The plan shall include a detailed project schedule including the tasks and deliverables required to accomplish the work in the Contractor's proposal.

The Contractor shall submit, no later than 30 days after the award of the contract, a final detailed project plan demonstrating the Contractor's proposed schedule to implement the audit program no later than February 13, 2009. The final implementation plan shall include a schedule of the tasks and deliverables required throughout the project and shall identify all critical path and dependency tasks and milestones, and delineating the responsibilities of the Contractor and the Department. The Department may identify modifications and additional information or details for inclusion.

The Contractor shall submit to the Department for approval an audit plan and audit methodology to be used for all audits of a specified provider type. The Contractor shall also submit a master error matrix before commencing desk reviews. This matrix shall be approved by the Department prior to conducting reviews. These documents will be due to the Department within 45 days of the contract's effective date. The Contractor shall use their experience in performing such audits to estimate the potential time involved. The methodology used shall be part of the Contractor's response to this proposal.

The Department may make such reasonable investigations as deemed proper and necessary to determine the ability of the Contractor to perform the services and the Contractor shall furnish to the Department all such information and data for this purpose as may be requested. The Department reserves the right to inspect Contractor's physical facilities, including any located outside of Richmond, prior to award to satisfy questions regarding the Contractor's capabilities. The Department further reserves the right to reject any proposal if the evidence submitted by, or investigations of, such Contractor fails to satisfy the Department that such Contractor is properly qualified to carry out the obligations of the contract and to provide the services contemplated therein.

The Contractor shall be responsible for participating in and defining the details of the Operational Readiness Assessment Plan for its service package and shall be responsible for preparing and submitting its Operational Readiness Assessment Plan to the State for review and approval. The State may include providers in the operational readiness assessment.

Any changes required to the Contractor's processes as identified through readiness review activities shall be made by the Contractor prior to implementation. Costs associated with these changes shall be borne by the Contractor. The Contractor's inability to demonstrate, to the Department's satisfaction and as provided in this section, that Contractor is fully capable of performing all duties under this contract no later than February 13, 2009, shall be grounds for the immediate termination of the Contract by the Department pursuant to the Contract's Special Terms and Conditions found in section 11 and the Cancellation of Contract rights located in section 11.7.2.

All expenses incurred by the Contractor in performing the services required by this RFP, including but not limited to, audit costs, travel, copying, data access, and reporting are the

responsibility of the Contractor. The Contractor shall be required to establish and maintain a method of obtaining claims, provider and client data from the fiscal agent.

### **3.12 Transition upon Termination Requirements**

At the expiration of this Contract, or if at any time the Department desires a transition of all or any part of the duties and obligations of Contractor to the Department or to another vendor after termination or expiration of the Contract, the Department shall notify the Contractor of the need for transition. Such notice shall be provided at least sixty (60) calendar days prior to the date the Contract will expire, or at the time the Department provides notice of termination to Contractor, as the case may be. The transition process will commence immediately upon such notification and shall, at no additional cost to the Department, continue past the date of contract termination or expiration if, due to the actions or inactions of Contractor, the transition process is not completed before that date.

If delays in the transition process are due to the actions or inactions of the Department or the Department's newly designated vendor, the Department and Contractor shall negotiate in good faith a contract for the conduct of and compensation for transition activities after the termination or expiration of the Contract. In the event that a subsequent Contractor is unable to assume operations on the planned date for transfer, the Contractor shall continue to perform operations on a month-to-month basis for up to six months beyond the planned transfer date. The Department will withhold final payment to the Contractor until transition to the new Contractor is complete.

#### **3.12.1 Close Out and Transition Procedures**

- 3.12.1.a Within ten (10) business days after receipt of written notifications by the Department of the initiation of the transition, the Contractor shall provide to the Department a detailed electronic document, containing the following:
  - i. The number of audits opened, pending and completed identified by provider;
  - ii. Number and amount of identified overpayments for collection; and
  - iii. Information on any pending reconsiderations and appeals.
- 3.12.1.b Within ten (10) business days after receipt of the detailed document, the Department will provide the Contractor with written instructions, which shall include, but not be limited to, the following:
  - i. The packaging, documentation, delivery location, and delivery date of all records, data and review information to be transferred. The delivery period shall not exceed thirty (30) calendar days from the date the instructions are issued by the Department.
  - ii. The date, time and location of any transition meeting to be held among the Department, the Contractor and any incoming Contractor. The Contractor shall provide a minimum of two (2) individuals to attend the transition meeting and those individuals shall be proficient in and knowledgeable about the materials to be transferred.

- 3.12.1 .c Within five (5) business days after receipt of the materials from the Contractor, the Department shall submit to the Contractor in writing any questions the Department has with regard to the materials transferred by Contractor. Within five (5) business days after receipt of the questions, the Contractor shall provide written answers to the Department.
- 3.12.1 .d All copyright and patent rights to all papers, reports, forms, materials, creations, or inventions created or developed in the performance of this contract shall become the sole property of the Department. On request, the Contractor shall promptly provide an acknowledgment or assignment in a tangible form satisfactory to the Department to evidence the Department's sole ownership of specifically identified intellectual property created or developed in the performance of the contract.

#### **4. REPORTING AND DELIVERY REQUIREMENTS**

The Contractor shall submit, as part of the response to this RFP, sample written reports that includes the results of reviews and analyses performed, the potential recovery, and the identification of hours and effort required by the Contractor to produce the estimated recovery amounts identified.

##### **4.1 Report on Each Engagement**

The Contractor shall issue a report to DMAS of the results of applying agreed upon procedures for each audit performed. Included with the report will be a summary of the audit findings and specific information about the audit (e.g. date, time, auditor name(s), etc.), all of which are also mailed to the provider after approval by DMAS. In addition, a periodic summary of audit findings by provider type will be included in the report. These findings report shall be in electronic format that allows for data analysis by DMAS.

The Contractor shall produce accurate audit reports within the timeframes specified in the contract. The Department expects the audit report to correlate with Virginia Medicaid policies and procedures.

The Contractor shall provide a schedule indicating the dates the audits will be performed and will advise DMAS of the completion of each audit. The Contractor is expected to meet delivery dates.

##### **4.2 Monthly Progress Reports**

The Contractor must prepare written progress reports on a monthly basis and present these reports to DMAS. This report is due to the Department by the 15th day of each month. Report criteria shall be agreed on by the Department and Contractor. The following criteria shall be included at a minimum:

- a. Status of major activities and tasks related to Contractor's project and work plan, including specific tasks completed for each part of the project.

- b. Number of claims analyzed, selected for more detailed reviews, opened, pending and completed for the current month, contract to date and averages per month;
- c. Fraud and/or abuse issues identified;
- d. Overpayment amounts identified in the previous month, contract to date and average amount per month;
- e. Means by which overpayments were identified;
- f. Actions taken;
- g. Outstanding issues by Contractor and Department;
- h. Number of cases before the Department awaiting approval;
- i. Number of cases recommended for referral to Medicaid Fraud Control Unit ;
- j. Number of reconsiderations received;
- k. Case status of reconsiderations;
- l. Trends noted, provider specific and statewide;
- m. Number of appeal notifications received;
- n. Case status of appeals;
- o. Miscellaneous: Problems encountered, etc.;
- p. Target dates for the completion of remaining tasks;
- q. Any potential delays in reaching target dates and the basis for such a conclusion; and
- r. Any revisions to the overall project and audit schedule.

#### **4.3 Annual Reports**

Annual reports summarizing all activity mentioned above are due within 20 days after the end of the State's fiscal year, June 30th. An Executive Summary Report shall be provided, reporting on the status of all activities.

#### **4.4 Additional Reports**

If requested by DMAS, the Contractor shall provide additional ad hoc reports in relation to the RFP (and resulting contract) requirements in a format as agreed upon by the Department and the Contractor. The Department shall incur no expense in the generation of such reports. The Contractor should explicitly state in their proposal if there is a set limit on ad hoc reports as well as hourly costs for reports over such threshold. Additionally, the Contractor shall make revisions in the data elements or format of the reports required in this RFP and resulting contract upon request of the Department and without additional charge to the Department. The Department shall provide written notice of such requested revisions of format changes in a notice of required report revisions. Contractor shall maintain a data gathering and storage system sufficient to meet the requirements of this RFP. As part of the response to this proposal the Contractor shall indicate the number of monthly ad hoc reports that will be available to the Department.

#### **4.5 Delivery**

Failure to complete audits within the scheduled time frames may be cause for cancellation of the contract, unless there are documented delays that have been approved by the Department.

#### **4.6 Meetings**

##### **Kick Off Meetings**

The Contractor shall lead a kick off meeting within 30 days after contract effective date. The meeting shall introduce the project staff; provide project plans and goals and deliverables to DMAS management team.

##### **Weekly Meetings**

It is anticipated that the contract start-up phase may require frequent coordination meetings. Weekly strategy/problem-solving meetings are anticipated initially with the contract manager for the Department.

##### **Quarterly Meetings**

It is expected that quarterly meetings may also occur with representatives from the Program Integrity Section when appropriate, to discuss issues, problems, suggested solutions, relevant findings, trends and enforcement challenges due to regulation weaknesses. The Contractor shall conduct demonstrations for the Department of any new analysis tools and data analysis introduced during performance.

### **5. CONTROLS**

The Department reserves the right to limit, control, or excludes certain categories of recovery, recipients and/or medical services from the Contractor's scope of work, including, but not limited to, the following specific limits:



1. The Contractor shall not duplicate, but may supplement, the Department's cases that result from activities of the Program Integrity Division, or the reviews of other Department contractors. Contractors shall incorporate in their proposals techniques or approaches to ensure that there will be no duplication between the work under this RFP and the work under existing contracts.
2. The Contractor shall not compromise or waive any claims without first receiving the written authorization of the Director of the Program Integrity Division.
3. All findings notice templates shall be approved by the Department before the Contractor begins sending them to providers for recovery.
4. All cases where fraud is suspected or detected shall be referred to the Department for referral to MFCU prior to any actions or recoupment efforts taking place. The Contractor shall provide support to the MFCU on matters relating to specific cases involving detected or suspected fraud.
5. The Director of the Program Integrity Division shall approve any on-site reviews prior to the Contractor visiting a provider's site. Data analysis prior to Department review is permitted.

Contractors, as part of the response to this RFP, shall present a detailed specific plan regarding meeting compliance with each of the above requirements.

## **5.1 Annual Review of Controls**

The Contractor shall provide to the Department and the State Treasurer a statement from its independent auditor that a review of the Company's internal accounting controls reveals no conditions believed to be a material weakness in the proper administration of the Department's Community Mental Health and Other Behavioral Health Audit Program in accordance with sound business principles. The written statement shall be provided annually each June 15 for the preceding calendar year.

## **5.2 Fraud and Abuse**

### **5.2.1 Prevention/Detection of Provider Fraud and Abuse**

The Contractor shall have internal controls and policies and procedures in place that are designed to prevent, detect, and report known or suspected fraud and abuse activities. Such policies and procedures must be in accordance with Federal regulations described in 42 CFR Parts 455 and 456. The Contractor shall have adequate staffing and resources to investigate unusual incidents and develop and implement corrective action plans to assist the Contractor in preventing and detecting potential fraud and abuse activities.

### **5.2.2 Fraud and Abuse Compliance Plan**

- a. The Contractor shall have a written Fraud and Abuse Compliance Plan. The Contractor's specific internal controls and policies and procedures shall be described in a comprehensive written plan and be maintained on file with the Contractor for review and approval by the Department with this RFP and as an annual submission as part of the Contract. The Plan must define how the Contractor shall adequately identify and report suspected fraud and abuse by enrollees, by network providers, by subcontractors and by the Contractor. The Plan must be submitted annually and must discuss the monitoring tools and controls necessary to protect against theft, embezzlement, fraudulent marketing practices, or other types of fraud and program abuse and describe the type and frequency of training that will be provided to detect fraud. All fraudulent activities or other program abuses shall be subject to the laws and regulations of the Commonwealth of Virginia and/or Federal laws and regulations.

The Department shall provide notice of approval, denial, or modification to the Contractor within thirty (30) calendar days of annual submission. The Contractor shall make any requested updates or modifications available for review after modifications are completed as requested by the Department within thirty (30) calendar days of a request. At a minimum the written plan shall:

- i. Ensure that all officers, directors, managers and employees know and understand the provisions of the Contractor's fraud and abuse compliance plan;
  - ii. Contain procedures designed to prevent and detect potential or suspected abuse and fraud in the administration and delivery of services under this contract;
  - iii. Include a description of the specific controls in place for prevention and detection of potential or suspected abuse and fraud, such as:
    - a. Relevant subcontractor and provider agreement provisions;
    - b. Written material regarding fraud and abuse referrals.
  - iv. Contain provisions for the confidential reporting by providers and subcontractors of plan violations to the designated person as described in item b. below;
  - v. Contain provisions for the investigation and follow-up of any compliance plan reports;
  - vi. Ensure that the identities of individuals reporting violations of the plan are protected;
  - vii. Contain specific and detailed internal procedures for officers, directors, managers and employees for detecting, reporting, and investigating fraud and abuse compliance plan violations;
  - viii. Require any confirmed or suspected provider fraud and abuse under state or federal law be reported to the Department and that enrollee fraud and abuse be reported to the Department;
  - ix. Ensure there is no retaliation against an individual who reports plan violations or suspected fraud and abuse.
- b. The Contractor shall designate an officer or director in its organization who has the responsibility and authority for carrying out the provisions of the fraud and abuse

compliance plan.

- c. The Contractor shall report incidents of potential or actual fraud and abuse to the Department within two (2) business days of initiation of any investigative action by the Contractor or within two (2) business days of Contractor notification that another entity is conducting such an investigation of the Contractor. All reports shall be sent to the Department in writing and shall include a detailed account of the incident, including names, dates, places, and suspected fraudulent activities. The Contractor shall cooperate with all fraud and abuse investigation efforts by the Department and other State and Federal offices. The Contractor shall provide an annual report to the Department of all activities and results.

## **6. DMAS RESPONSIBILITIES**

DMAS shall provide a contract monitor to maintain communication with the Contractor. DMAS shall meet with the Contractor representative on a weekly basis (which may be telephonically) to discuss the audit program. During such, issues such as current provider investigations, project plan and audit plans etc will be addressed. DMAS will:

- Review the error matrix and approving all desk and on-site audits before the Contractor performs these services.
- Make the final determination regarding overpayments, and auditing costs.
- Collect any resulting overpayments, investigative expenses and/or fines that shall not be shared with the Contractor. No fines or overpayments collected as a result of the audits shall be shared with the Contractor.
- Approve all letters that the Contractor sends to providers and associations informing them of the impending audits, the preliminary results of the audits, and the final results of the audits.
- Make the final decisions regarding all policy issues related to the auditing of the providers and the Virginia Medicaid program.
- Provide on-going project review and contract evaluation to ensure contract compliance.
- Review and approve any Contractor written policy, subcontracts and/or procedural communications to providers and others prior to release.
- Approve Contractor's project and audit plan.

## **7. PAYMENTS TO THE CONTRACTOR**

Payments to the Contractor shall be made monthly at the contracted fixed flat fee. The overall annual total of payments to the Contractor for the contracted services shall be limited to the total amount agreed to by DMAS and the Contractor in the contract negotiations. The Department

will not offer or pay directly or indirectly any material inducement, bonus, or other financial incentive based on a percentage of any overpayments identified during the audits. Payments to the Contractor shall also be subject to the General Terms and Conditions and the Special Terms and Conditions of Sections 10 and 11 respectively of this RFP.

### **7.1 Monthly Invoicing**

The Contractor shall be paid monthly based on a monthly invoice submitted by the 10<sup>th</sup> day of the following month. The monthly invoicing from the Contractor must identify by provider and provider period or by project, the type(s) of contractual services performed, Contractor staff level performing the services, and number of hours performed by each such staff level for that audit or project. The monthly invoice shall be itemized by type of activity, by provider, and by type of service and in total. Travel expenses for off-site travel to and from provider sites in the performance of auditing or other services will be in like manner identified by type of out-of-pocket expense, by provider and provider period and summarized by type of service performed and in total.

## **8. PROPOSAL PREPARATION AND SUBMISSION REQUIREMENTS**

Each Offeror shall submit a separate Technical Proposal and a Cost Proposal in relation to the requirements described in this RFP. The following describes the general requirements and the specific requirements for the Technical Proposal and the cost proposal.

### **8.1. Overview**

Both the Technical Proposal and the Cost Proposal shall be developed and submitted in accordance with the instructions outlined in this section. The Offeror's proposals shall be prepared simply and economically, and they shall include a straightforward, concise description of the Offeror's capabilities that satisfy the requirements of the RFP. Although concise, the proposals should be thorough and detailed so that DMAS may properly evaluate the Offeror's capacity to provide the required services. All descriptions of services should include an explanation of proposed methodology, where applicable. The proposals may include additional information that the Offeror considers relevant to this RFP.

The proposals shall be organized in the order specified in this RFP. A proposal that is not organized in this manner risks elimination from consideration if the evaluators, at their sole discretion, are unable to find where the RFP requirements are specifically addressed. Failure to provide information required by this RFP may result in rejection of the proposal.

The proposal may include any additional information that the Offeror considers relevant to this RFP.

### **8.2 Critical Elements of the Technical Proposal**

The Offeror must cross reference its Technical proposal with each requirement listed in Sections 3 and 4 of this RFP. In addition, the Offeror must ensure that the following documentation is included in the proposal.

**Contractor's Qualifications:** The proposal must include a summary of the Contractor's qualifications. The nature and importance of the work requires very strong qualifications. Documentation of directly related experience and credentials is necessary. Special emphasis will be placed upon experience in performing similar service audits for State or federal government human services organizations. Include in the description experience with projects of a similar nature and scope.

**Project Plan:** The proposal must include a preliminary implementation plan as part of the response to this RFP. The plan shall include a detailed project schedule including the tasks and deliverables required to accomplish the work in the Contractor's proposal.

**Capacity Summary:** The proposal must include a capacity summary (physical plant, equipment, and critical personnel) including a discussion of the Contractor's capacity to successfully provide the desired services in light of other potential and known demands upon those resources.

**Summary of Key Staff:** The proposal must include a staff summary and identification of key staff, to include a qualified project director who will be working on the project, and their relevant experience. Professional resumes for staff must be included with an indication of their area(s) of expertise (e.g. pharmacy).

**Estimate of Hours by Level:** The proposal must include an estimate of hours required by each level of professional in completion of a routine Medicaid audit in each of the two basic audit areas (desk audit and on-site audit) for the different provider types subject to this audit as discussed in the Nature and Scope of Services (Section 3).

**Total Allocated Hours by Audit Area:** The proposal must include an estimate of hours per year that could be allocated in total and by each audit area to the DMAS audits. Contractors must estimate those hours by the time of year that would be available for the DMAS audits.

**Out-of-Pocket Expenses:** The proposal must identify the types of expenses normally incurred as out-of-pocket expenses, and the Contractor's policy with regard to reimbursement of such expenses.

**References:** The proposal must include a minimum of three references. In addition, the proposal must include references from all state governments for which the Contractor is currently under contract. Signatures from the state officials must be included on the reference submission in this RFP. Contractors who fail to provide all state references with official signatures shall fail to earn the maximum points under the evaluation criteria. The Contractor shall also include past and/or current commercial accounts for work of a similar nature (Attachment I).

**Small Business Subcontracting Plan:** The Contractor shall be required to submit, a report on the actual dollars to be spent with small businesses and small businesses owned by women and minorities during the performance of the contract. When such business has been subcontracted to these firms and quarterly during the contract period, the Contractor agrees to furnish the purchasing office the following information: name of firm, phone number, total dollar amount subcontracted and type of product/service provided on a quarterly basis.

Names of Virginia certified firms may be available from the Department of Minority Business Enterprise at [www.dmbe.virginia.gov](http://www.dmbe.virginia.gov). At a minimum, this report shall include for each firm contracted with and for each such business class (i.e., small, small-minority-owned, small-women-owned) the total actual dollars spent on this contract, the planned involvement of the firm and business class as specified in the proposal, and the actual percent of the total estimated contract value.

The Contractor shall submit a Small Business Subcontracting Plan for this procurement. Attachment II contains the format for providing this information, and shall be included in the package with the Offeror's Original of the Technical Proposal.

### **8.3 Binding of Proposal**

The Technical Proposal shall be clearly labeled "Technical Proposal" on the front cover. The Cost Proposal shall be clearly labeled "Cost Proposal" on the front cover. The legal name of the organization submitting the proposal shall also appear on the covers of both the Technical Proposal and the Cost Proposal.

The proposals shall be typed, bound, pages numbered, single-spaced with a 12-point font on 8 1/2" x 11" paper with 1" margins and printed on one side only. Each copy of the Technical Proposal and each copy of the Cost Proposal and all documentation submitted shall be contained in single three-ring binder volumes where practical. A tab sheet keyed to the Table of Contents shall separate each major section. The title of each major section shall appear on the tab sheet.

The Offeror shall submit an original and five (5) copies of the Technical Proposal and one original of the Cost Proposal by the response date and time specified in this RFP. Each copy of the proposal shall be bound separately. This submission shall be in a sealed envelope or sealed box clearly marked "RFP 2008-07" Technical Proposal." In addition, the original of the Cost Proposal shall be sealed separately and clearly marked "RFP 2008-07" Cost Proposal" and submitted by the response date and time specified in this RFP. The Cost Proposal forms in Attachment III shall be used. The Offeror shall also submit one electronic copy (compact disc preferred) of their Technical Proposal in MS Word format (Microsoft Word 2000 or compatible format) and of their Cost Proposal in MS Excel format (Microsoft Word 2000 or compatible format). In addition, the Offeror shall submit a redacted (proprietary and confidential information removed) electronic copy in PDF format of their Technical Proposal.

### **8.4 Table of Contents**

The proposal shall contain a Table of Contents that cross-references the RFP submittal requirements in Section 3 and 4. Each section of the Technical Proposal shall be cross-referenced to the appropriate section of the RFP that is being addressed. This will assist DMAS in determining uniform compliance with specific RFP requirements.

## **8.5 Submission Requirements**

All information requested in this RFP shall be submitted in the Offeror's proposal. A Technical Proposal shall be submitted and a Cost Proposal shall be submitted in the Offeror's collective response. The proposals will be evaluated separately. By submitting a proposal in response to this RFP, the Offeror certifies that all of the information provided is true and accurate.

All data, materials and documentation originated and prepared for the Commonwealth pursuant to this RFP belong exclusively to the Commonwealth and shall be subject to public inspection in accordance with the Virginia Freedom of Information Act. Confidential information shall be clearly marked in the proposal and reasons the information should be confidential shall be clearly stated.

The Commonwealth agrees that neither it nor its employees, representatives, or agents shall knowingly divulge any proprietary information with respect to the operation of the software, the technology embodied therein, or any other trade secret or proprietary information related thereto, except as specifically authorized by the Contractor in writing or as required by the Freedom of Information Act or similar law. It shall be the Contractor's responsibility to fully comply with § 2.2-4342(F) of the *Code of Virginia*. All trade secrets or proprietary information must be identified in writing or other tangible form and conspicuously labeled as "proprietary" either prior to or at the time of submission to the Commonwealth.

The Contractor assures that information and data obtained as to personal facts and circumstances related to patients or clients will be collected and held confidential, during and following the term of this agreement, and will not be divulged without the individual's and the agency's written consent. Any information to be disclosed, except to the agency, must be in summary, statistical, or other form which does not identify particular individuals. Contractors and their employees working on this project shall be required to sign the Confidentiality statement in this solicitation.

Ownership of all data, materials, and documentation originated and prepared for the State pursuant to the RFP shall belong exclusively to the State and be subject to public inspection in accordance with the Virginia Freedom of Information Act. Trade secrets or proprietary information submitted by an Offeror shall not be subject to public disclosure under the Virginia Freedom of Information Act; however, the Offeror must invoke the protections of § 2.2-4342(F) of the *Code of Virginia*, in writing, either before or at the time the data or other material is submitted. The written notice must specifically identify the data or materials to be protected and state the reasons why protection is necessary. The proprietary or trade secret materials submitted must be identified by some distinct method such as highlighting or underlining and shall indicate only the specific words, figures, or paragraphs that constitute trade secret or proprietary information. The classification of an entire proposal document, line item prices and/or total

proposal prices as proprietary or trade secrets is not acceptable and, in the sole discretion of DMAS, may result in rejection and return of the proposal.

All information requested by this RFP on ownership, utilization and planned involvement of small businesses, small-women-owned businesses and small-minority-owned business shall be submitted with the Technical Proposal.

## **8.6 Transmittal Letter**

The transmittal letter shall be on official organization letterhead and signed by the individual authorized to legally bind the Offeror to contract agreements and the terms and conditions contained in this RFP. The organization official who signs the proposal transmittal letter shall be the same person who signs the cover page of the RFP and Addenda.

At a minimum, the transmittal letter shall contain the following:

1. A Statement that the Offeror meets the required conditions to be an eligible candidate for the contract award including:
  - a) The Offeror and any related entities must identify any client relationships, contracts or agreements they have with any State or local government entity that is a Medicaid and/or Title XXI State Child Health Insurance Program provider or Contractor and the general circumstances of the contract or agreement. This information will be reviewed by DMAS to ensure there are no potential conflicts of interest;
  - b) Offeror must be able to present sufficient assurances to the State that the award of the contract to the Offeror shall not create a conflict of interest between the Contractor, the Department, and its subcontractors; and
  - c) The Offeror must be licensed to conduct business in the State of Virginia.
2. A Statement that the Offeror has read, understands and agrees to perform all of the Contractor responsibilities and comply with all of the requirements and terms set forth in this RFP, any modifications of this RFP, the Contract and Addenda;
3. The Offeror's general information, including the address, telephone number, and facsimile transmission number;
4. Designation of an individual as the authorized representative of the organization who will interact with DMAS on any matters pertaining to this RFP and the resultant Contract; and
5. A Statement agreeing that the Offeror's proposal shall be valid for a minimum of 180 days from its submission to DMAS.

## **8.7 Signed Cover Page of the RFP and Addenda**

To attest to all RFP terms and conditions, the authorized representative of the Offeror shall sign the cover page of this RFP as well as the cover page of the Addenda, if issued, to the RFP and submit this along with its proposal.



## **8.8 Procurement Contact**

The principal point of contact for this procurement in DMAS shall be:

Terri Harrison, Contract Monitor  
Program Integrity Section  
Virginia Department of Medical Assistance Services  
600 East Broad Street, Suite 1300  
Richmond, VA 23219  
E-mail: [RFP2008-07@dmass.virginia.gov](mailto:RFP2008-07@dmass.virginia.gov)

All communications with DMAS regarding this RFP should be directed to the principal point of contact. All RFP content-related questions shall be in writing to the principal point of contact or the DMAS Contract Management Officer. An Offeror who communicates with any other employees or Contractors of DMAS concerning this RFP after issuance of the RFP may be disqualified from this procurement.

## **8.9 Submission and Acceptance of Proposals**

The proposals, whether mailed or hand delivered, shall arrive at DMAS no later than 2:00 p.m. E.S.T. on November 6, 2008. DMAS shall be the sole determining party in establishing the time of arrival of proposals. Late proposals shall not be accepted and shall be automatically rejected from further consideration. The address for delivery is:

**Proposals may be sent by US mail, Federal Express, UPS, etc. to:**

Attention: William D. Sydnor  
Department of Medical Assistance Services  
600 East Broad Street, Suite 1300  
Richmond, VA 23219

**Hand Delivery or Courier to:**

Attention: William D. Sydnor  
Department of Medical Assistance Services  
7th Floor DMAS Receptionist  
600 East Broad Street  
Richmond, VA 23219

If DMAS does not receive at least one responsive proposal as a result of this RFP, DMAS reserves the right to select a Contractor that best meets its needs. DMAS management shall select this Contractor. DMAS also reserves the right to reject all proposals. DMAS reserves the right to delay implementation of the RFP if a satisfactory Contractor is not identified or if DMAS determines a delay is necessary to ensure implementation goes smoothly without service interruption. Information will be posted on the DMAS web site at <http://www.dmass.virginia.gov/> and the eVA web site at <http://www.eva.virginia.gov>.

## **8.10 RFP Schedule of Events**

The following RFP Schedule of Events represents the State's proposed timeframe for planning purposes that shall be followed for implementation of the program.

<b>EVENT</b>	<b>DATE</b>
State Issues RFP	September 18, 2008
Letter of Intent	October 1, 2008
Deadline for Written Comments	October 1, 2008
State Issues Responses to Written Comments	October 14, 2008
Deadline for Submitting a Proposal to the Department	November 6, 2008
Implementation Date (Project Plan and Data Exchange)	February 13, 2009

If it becomes necessary to revise any part of this RFP, or if additional data is necessary for an interpretation of provisions of this RFP prior to the due date for proposals, an addendum will be issued to all Offerors by the Department. If supplemental releases are necessary, the Department reserves the right to extend the due dates and time for receipt of proposals to accommodate such interpretations of additional data requirements. The RFP and subsequent information will be listed on the Department's website ([www.dmas.virginia.gov](http://www.dmas.virginia.gov)) and the eVA website ([www.eva.virginia.gov](http://www.eva.virginia.gov)). Offerors are responsible for checking these sites for any addendums or notices regarding this RFP.

## **9. PROPOSAL EVALUATIONS AND AWARD CRITERIA**

DMAS will conduct a comprehensive, fair, and impartial evaluation of the Technical and Cost Proposals received in response to this RFP. The Evaluation Team will be responsible for the review and scoring of all proposals. This group will be responsible for the recommendation to the DMAS Director.

### **9.1 Evaluation of Minimum Requirements**

DMAS will initially determine if each proposal addresses the minimum RFP requirements to permit a complete evaluation of the Technical and Cost Proposals. Proposals shall comply with the instructions to Offerors contained throughout this RFP. Failure to comply with the instructions shall result in a lower scoring of the proposal. DMAS reserves the right to waive minor irregularities.

The minimum requirements for a proposal to be given consideration are:

**RFP Cover Sheet:** This form shall be completed and properly signed by the authorized representative of the organization.

**Closing Date:** The proposal shall have been received, as provided in Section 8.9, before the closing of acceptance of proposals in the number of copies specified.

**Compliance:** The proposal shall comply with the entire format requirements described in Sections 3 and 4 and the Technical and Cost Proposal requirements described in Section 8.

**Mandatory Conditions:** All mandatory General and Special Terms and Conditions contained in Sections 10 and 11 shall be accepted.

**Small Business Utilization:** Summarize the planned utilization of DMBE certified small businesses and small businesses owned by women and minorities under the contract to be awarded as a result of this solicitation. (Attachment II)

## **9.2 Proposal Evaluation Criteria**

The broad criteria for evaluating proposals include the elements below:

### **1. General quality and adequacy of response:**

- Agreement to comply with all general and specific requirements and conditions (Sections 3 and 4).
- Responsiveness to information furnished and goals Stated in Scope of Work (Section 3).
- Demonstrated knowledge of Medicare and Medicaid provider billing practices and reimbursement procedures.
- Audit hours available to perform the DMAS audits under contract.
- Clear understanding of the project as demonstrated in the responses to the RFP.
- Projected identified overpayment that exceed a minimum of twice the contract costs that the Department will achieve as a result of this contract. Failure of the Contractor to identify overpayments that exceed a minimum of twice the contract costs may result in termination of the contract.

### **2. Proposal/Work Plan for Completion of the Audits.**

- The clarity and completeness of the proposal related to the Offeror's approach to and completion of the audits and management of the assigned personnel.
- The lead-time to begin an audit, and the turn around time to complete the expected work.
- The work plan distribution of person hours for each part of the project.

### **3. Contractor Qualifications**

- Qualifications of personnel
- Prior experience with similar projects.

- Identified conflicts Appropriateness of the relationship between staff qualifications and assigned responsibilities.
- Capability of the personnel assigned to the project to audit for compliance with applicable health care regulations, to propose adjustments to costs submitted for reimbursement when appropriate, and to produce working papers that support conclusions reached in the audit engagement.
- Capability of the project director to successfully manage the project.

#### **4. Quality of references**

- References who clearly address the nature of the work performed by the Offeror.
- References who exhibit satisfaction with the work performed by the Offeror.
- Contacts for other contracts who exhibit satisfaction with the work performed by the Offeror.

#### **5. Proposed Recoveries to Administration Cost Methodology**

The cost proposal shall be evaluated taking into consideration:

- The projected recoveries and how the Contractor shall achieve the recoveries by the end of each State fiscal year of at least twice its contracted costs.
- Proposals that guarantee recoveries without extrapolation, will receive additional points.

#### **6. Small Business Subcontracting Plan **20%****

#### **7. Cost**

The cost proposal shall be evaluated taking into consideration:

- The fixed fee cost proposal – see Attachment III.

The lowest cost proposal shall be scored the maximum number of evaluation points for cost. All other cost proposals shall be evaluated and assigned points for cost in relation to the lowest cost proposal. Although cost proposals are evaluated and weighted, they are not the sole deciding factor for the RFP.

### **9.3 Oral Presentations**

Oral presentations may be conducted with each Offeror to clarify proposal points. The presentation may be held on site or telephonically.

## **10. GENERAL TERMS AND CONDITIONS**

### **10.1 Vendors Manual**

This solicitation is subject to the provisions of the Commonwealth of Virginia Vendors Manual and any changes or revisions thereto, which are hereby incorporated into this contract in their entirety. The procedure for filing contractual claims is in Section 7.19 of the Vendors Manual. A copy of the manual is normally available for review at the purchasing office and is accessible at <http://www.dgs.virginia.gov/DivisionofPurchasesandSupply/Manuals/tabid/421/Default.aspx>

## **10.2 Applicable Laws and Courts**

This solicitation and any resulting contract shall be governed in all respects by the laws of the Commonwealth of Virginia and any litigation with respect thereto shall be brought in the courts of the Commonwealth. The Department and the Contractor are encouraged to resolve any issues in controversy arising from the award of the contract or any contractual dispute using Alternative Dispute Resolution (ADR) procedures (*Code of Virginia*, § 2.2-4366). ADR procedures are described in Chapter 9 of the Vendors Manual (I could not verify chapter). The Contractor shall comply with all applicable federal, State and local laws, rules and regulations.

## **10.3 Anti-Discrimination**

By submitting their proposals, Offerors certify to the Commonwealth that they will conform to the provisions of the Federal Civil Rights Act of 1964, as amended, as well as the Virginia Fair Employment Contracting Act of 1975, as amended, where applicable, the Virginians With Disabilities Act, the Americans With Disabilities Act and § 2.2-4311 of the Virginia Public Procurement Act, and any other applicable laws. If the award is made to a faith-based organization, the organization shall not discriminate against any recipient of goods, services, or disbursements made pursuant to the contract on the basis of the recipient's religion, religious belief, refusal to participate in a religious practice, or on the basis of race, age, color, gender or national origin and shall be subject to the same rules as other organizations that contract with public bodies to account for the use of the funds provided; however, if the faith-based organization segregates public funds into separate accounts, only the accounts and programs funded with public funds shall be subject to audit by the public body. (*Code of Virginia*, § 2.2-4343.1(E))

In every contract over \$10,000, the provisions in Sections 10.3.1 and 10.3.2. below apply:

**10.3.1.** During the performance of this contract, the Contractor agrees as follows:

- a) The Contractor shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by State law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the Contractor. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
- b) The Contractor, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, will state that such Contractor is an equal opportunity employer.
- c) Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting these requirements.

**10.3.2.** The Contractor shall include the provisions of 10.3.1 above in every subcontract or purchase order over \$10,000, so that the provisions will be binding upon each subcontractor or Contractor.

#### **10.4 Ethics in Public Contracting**

By submitting their proposals, Offerors certify that their proposals are made without collusion or fraud and that they have not offered or received any kickbacks or inducements from any other Offeror, supplier, manufacturer or subcontractor in connection with their proposal, and that they have not conferred on any public employee having official responsibility for this procurement transaction any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value was exchanged.

#### **10.5 Immigration Reform and Control Act Of 1986**

By submitting their proposals, Offerors certify that they do not and will not during the performance of this contract employ illegal alien workers or otherwise violate the provisions of the federal Immigration Reform and Control Act of 1986.

#### **10.6 Debarment Status**

By submitting their proposals, Offerors certify that they are not currently debarred by the Commonwealth of Virginia or any other federal, State or local government from submitting bids or proposals on any type of contract, nor are they an agent of any person or entity that is currently so debarred.

#### **10.7 Antitrust**

By entering into a contract, the Contractor conveys, sells, assigns, and transfers to the Commonwealth of Virginia all rights, title and interest in and to all causes of action it may now have or hereafter acquire under the antitrust laws of the United States and the Commonwealth of Virginia, relating to the particular goods or services purchased or acquired by the Commonwealth of Virginia under said contract.

#### **10.8 Mandatory Use of State Form and Terms and Conditions**

Failure to submit a proposal on the official State form, in this case the completed and signed RFP Cover Sheet, may be a cause for rejection of the proposal. Modification of or additions to the General Terms and Conditions of the solicitation may be cause for rejection of the proposal; however, the Commonwealth reserves the right to decide, on a case by case basis, in its sole discretion, whether to reject such a proposal.

#### **10.9 Clarification of Terms**

If any prospective Offeror has questions about the specifications or other solicitation documents, the prospective Offeror should contact Tracy Wilcox, Contract Monitor no later than 2:00 pm on Date. Any revisions to the solicitation will be made only by addendum issued by the buyer.

## **10.10 Payment**

### **1. To Prime Contractor:**

- a. Invoices for items ordered, delivered and accepted shall be submitted by the Contractor directly to the payment address shown on the purchase order/contract. All invoices shall show the State contract number and/or purchase order number; social security number (for individual contractors) or the federal employer identification number (for proprietorships, partnerships, and corporations).
- b. Any payment terms requiring payment in less than 30 days will be regarded as requiring payment 30 days after invoice or delivery, whichever occurs last. This shall not affect offers of discounts for payment in less than 30 days, however.
- c. All goods or services provided under this contract or purchase order, that are to be paid for with public funds, shall be billed by the Contractor at the contract price, regardless of which public Department is being billed.
- d. The following shall be deemed to be the date of payment: the date of postmark in all cases where payment is made by mail, or the date of offset when offset proceedings have been instituted as authorized under the Virginia Debt Collection Act.
- e. Unreasonable Charges: Under certain emergency procurements and for most time and material purchases, final job costs cannot be accurately determined at the time orders are placed. In such cases, Contractors should be put on notice that final payment in full is contingent on a determination of reasonableness with respect to all invoiced charges. Charges that appear to be unreasonable will be researched and challenged, and that portion of the invoice held in abeyance until a settlement can be reached. Upon determining that invoiced charges are not reasonable, the Commonwealth shall promptly notify the Contractor, in writing, as to those charges which it considers unreasonable and the basis for the determination. A Contractor may not institute legal action unless a settlement cannot be reached within thirty (30) days of notification. The provisions of this section do not relieve the Department of its prompt payment obligations with respect to those charges that are not in dispute (*Code of Virginia*, § 2.2-4363).

### **2. To Subcontractors:**

- a. A Contractor awarded a contract under this solicitation is hereby obligated:
  - (1) To pay the subcontractor(s) within seven (7) days of the Contractor's receipt of payment from the Commonwealth for the proportionate share of the payment received for work performed by the subcontractor(s) under the contract; or

1. To notify the Department and the subcontractor(s), in writing, of the Contractor's intention to withhold payment and the reason.
  - a. The Contractor is obligated to pay the subcontractor(s) interest at the rate of one percent per month (unless otherwise provided under the terms of the contract) on all amounts owed by the Contractor that remain unpaid seven (7) days following receipt of payment from the Commonwealth, except for amounts withheld as Stated in (2) above. The date of mailing of any payment by U. S. Mail is deemed to be payment to the addressee. These provisions apply to each sub-tier Contractor performing under the primary contract. A Contractor's obligation to pay an interest charge to a subcontractor may not be construed to be an obligation of the Commonwealth.
3. Each prime Contractor who wins an award in which provision of a small business contracting plan is a condition to the award, shall deliver to the contracting Department or institution, on or before request for final payment, evidence and certification of compliance (subject only to insubstantial shortfalls and to shortfalls arising from subcontractor default) with the small business contracting plan. Final payment under the contract in question may be withheld until such certification is delivered and, if necessary, confirmed by the Department or institution, or other appropriate penalties may be assessed in lieu of withholding such payment.

#### **10.11 Precedence of Terms**

The following General Terms and Conditions: VENDORS MANUAL, APPLICABLE LAWS AND COURTS, ANTI-DISCRIMINATION, ETHICS IN PUBLIC CONTRACTING, IMMIGRATION REFORM AND CONTROL ACT OF 1986, DEBARMENT STATUS, ANTITRUST, MANDATORY USE OF STATE FORM AND TERMS AND CONDITIONS, CLARIFICATION OF TERMS, PAYMENT shall apply in all instances. In the event there is a conflict between any of the other General Terms and Conditions and any Special Terms and Conditions in this solicitation, the Special Terms and Conditions shall apply.

#### **10.12 Qualifications of Offerors**

The Commonwealth may make such reasonable investigations as deemed proper and necessary to determine the ability of the Offeror to perform the services/furnish the goods and the Offeror shall furnish to the Commonwealth all such information and data for this purpose as may be requested. The Commonwealth reserves the right to inspect Offeror's physical facilities prior to award to satisfy questions regarding the Offeror's capabilities. The Commonwealth further reserves the right to reject any proposal if the evidence submitted by, or investigations of, such Offeror fails to satisfy the Commonwealth that such Offeror is properly qualified to carry out the



obligations of the Contract and to provide the services and/or furnish the goods contemplated therein.

### **10.13 Testing And Inspection**

The Commonwealth reserves the right to conduct any test/inspection it may deem advisable to ensure goods and services conform to the specifications.

### **10.14 Assignment of Contract**

A contract shall not be assignable by the Contractor in whole or in part without the written consent of the Commonwealth. Any assignment made in violation of this section will be void.

### **10.15 Changes to the Contract**

A contract modification consists of any changes or modifications to the Contract that are mutually agreed to in writing by the Contractor and the Department or are mandated by changes in Federal or State laws or regulations. Changes can be made to the contract in any of the following ways:

1. The parties may agree in writing to modify the scope of the contract. An increase or decrease in the price of the contract resulting from such modification shall be agreed to by the parties as a part of their written agreement to modify the scope of the contract.
2. The Department may order changes within the general scope of the contract at any time by written notice to the Contractor. Changes within the scope of the contract include, but are not limited to, things such as services to be performed, or are mandated by changes in Federal or State laws or regulations. The Contractor shall comply with the notice upon receipt. The Contractor shall be compensated for any additional costs incurred as the result of such order and shall give the Department a credit for any savings. Said compensation shall be determined by one of the following methods:
  - a) By mutual agreement between the parties in writing; or
  - b) By agreeing upon a unit price or using a unit price set forth in the contract, if the work to be done can be expressed in units, and the Contractor accounts for the number of units of work performed, subject to the Department's right to audit the Contractor's records and/or to determine the correct number of units independently; or
  - c) By ordering the Contractor to proceed with the work and keep a record of all costs incurred and savings realized. A markup for overhead and profit may be allowed if provided by the contract. The same markup shall be used for determining a decrease in price as the result of savings realized. The Contractor shall present the Department with all vouchers and records of expenses incurred and savings realized. The Department shall have the right to audit the records of the Contractor as it deems

necessary to determine costs or savings. Any claim for an adjustment in price under this provision must be asserted by written notice to the Department within thirty (30) days from the date of receipt of the written order from the Department. If the parties fail to agree on an amount of adjustment, the question of an increase or decrease in the contract price or time for performance shall be resolved in accordance with the procedures for resolving disputes provided by the Disputes Clause of this contract or, if there is none, in accordance with the dispute provisions of the Commonwealth of Virginia *Vendors Manual*. Neither the existence of a claim nor a dispute resolution process, litigation or any other provision of this contract shall excuse the Contractor from promptly complying with the changes ordered by the Department or with the performance of the contract generally.

#### **10.16 Default**

In case of failure to deliver goods or services in accordance with the contract terms and conditions, the Commonwealth, after due oral or written notice, may procure them from other sources and hold the Contractor responsible for any resulting additional purchase and administrative costs. This remedy shall be in addition to any other remedies, which the Commonwealth may have.

#### **10.17 Insurance**

By signing and submitting a bid or proposal under this solicitation, the Offeror certifies that if awarded the contract, it will have the following insurance coverage at the time the contract is awarded. For construction contracts, if any subcontractors are involved, the subcontractor shall have workers' compensation insurance in accordance with §§ 2.2-4332 and 65.2-800 et seq. of the *Code of Virginia*. The Offeror further certifies that the Contractor and any subcontractors will maintain these insurance coverages during the entire term of the contract and that all insurance coverage will be provided by insurance companies authorized to sell insurance in Virginia by the Virginia State Corporation Commission.

#### **MINIMUM INSURANCE COVERAGES AND LIMITS REQUIRED FOR MOST CONTRACTS:**

1. Workers' Compensation: Statutory requirements and benefits: Coverage is compulsory for employers of three or more employees, to include the employer. Contractors who fail to notify the Commonwealth of increases in the number of employees that change their workers' compensation requirements under the *Code of Virginia* during the course of the contract shall be in noncompliance with the contract.
2. Employer's Liability: \$100,000.
3. Commercial General Liability: \$1,000,000 per occurrence. Commercial General Liability is to include bodily injury and property damage, personal injury and advertising injury, products and completed operations coverage. The Commonwealth of Virginia must be named as an additional insured and so endorsed on the policy.
4. Automobile Liability: \$1,000,000 per occurrence. (Only used if motor vehicle is to be used in the contract.)

5. Professional Liability/Errors and Omission \$1,000,000 per occurrence, \$3,000,000 aggregate.

#### **10.18 Announcement of Award**

Upon the award or the announcement of the decision to award a contract over \$50,000, as a result of this solicitation, the Department will publicly post such notice on the DGS/DPS eVA web site ([www.eva.virginia.gov](http://www.eva.virginia.gov)) for a minimum of 10 days.

#### **10.19 Drug-Free Workplace**

During the performance of this contract, the Contractor agrees to:

1. Provide a drug-free workplace for the Contractor's employees;
2. Post in conspicuous places, available to employees and applicants for employment, a Statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition;
3. State in all solicitations or advertisements for employees placed by or on behalf of the Contractor that the Contractor maintains a drug-free workplace; and
4. Include the provisions of the foregoing clauses in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or Contractor.

For the purposes of this section, “*drug-free workplace*” means a site for the performance of work done in connection with a specific contract awarded to a Contractor, the employees of who are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the contract.

#### **10.20 Nondiscrimination of Contractors**

A Bidder, Offeror, or Contractor shall not be discriminated against in the solicitation or award of this contract because of race, religion, color, sex, national origin, age, disability, faith-based organizational status, any other basis prohibited by State law relating to discrimination in employment or because the bidder or Offeror employs sex-offenders unless the State Department, department or institution has made a written determination that employing sex-offenders on the specific contract is not in its best interest. If the award of this contract is made to a faith-based organization and an individual, who applies for or receives goods, services, or disbursements provided pursuant to this contract objects to the religious character of the faith-based organization from which the individual receives or would receive the goods, services, or disbursements, the public body shall offer the individual, within a reasonable period of time after the date of his objection, access to equivalent goods, services, or disbursements from an alternative provider.

## **10.21 eVA Business-To-Government Vendor Registration**

The eVA Internet electronic procurement solution, web site portal [www.eva.virginia.gov](http://www.eva.virginia.gov), streamlines and automates government purchasing activities in the Commonwealth. The eVA portal is the gateway for vendors to conduct business with state agencies and public bodies. All vendors desiring to provide goods and/or services to the Commonwealth shall participate in the eVA Internet e-procurement solution either through the eVA Basic Vendor Registration Service or eVA Premium Vendor Registration Service. All bidders or Offerors must register in eVA; failure to register will result in the bid/proposal being rejected.

- a. eVA Basic Vendor Registration Service: \$25 Annual Registration Fee plus the appropriate order Transaction Fee specified below. eVA Basic Vendor Registration Service includes electronic order receipt, vendor catalog posting, on-line registration, electronic bidding, and the ability to research historical procurement data available in the eVA purchase transaction data warehouse.
- b. eVA Premium Vendor Registration Service: \$25 Annual Registration Fee plus the appropriate order Transaction Fee specified below. eVA Premium Vendor Registration Service includes all benefits of the eVA Basic Vendor Registration Service plus automatic email or fax notification of solicitations and amendments.
- c. For orders issued prior to August 16, 2006, the Vendor Transaction Fee is 1%, capped at a maximum of \$500 per order.
- d. For orders issued August 16, 2006 and after, the Vendor Transaction Fee is:
  - (i) DMBE-certified Small Businesses: 1%, capped at \$500 per order.
  - (ii) Businesses that are not DMBE-certified Small Businesses: 1%, capped at \$1,500 per order.

## **10.22 Availability of Funds**

It is understood and agreed between the parties herein that the agency shall be bound hereunder only to the extent of the funds available or which may hereafter become available for the purpose of this agreement.

## **11. SPECIAL TERMS AND CONDITIONS**

### **11.1 Access to Premises**

The Contractor shall allow duly authorized agents or representatives of the State or Federal Government, during normal business hours, access to Contractor's and subcontractors' premises, to inspect, audit, monitor or otherwise evaluate the performance of the Contractor's and subcontractor's contractual activities and shall forthwith produce all records requested as part of such review or audit. In the event right of access is requested under this section, the Contractor and subcontractor shall, upon request, provide and make available staff to assist in the audit or inspection effort, and provide adequate space on the premises to reasonably accommodate the

State or Federal personnel conducting the audit or inspection effort. All inspections or audits shall be conducted in a manner as will not unduly interfere with the performance of Contractor or subcontractor's activities. The Contractor shall be given thirty (30) calendar days to respond to any preliminary findings of an audit before the Department shall finalize its findings. All information so obtained will be accorded confidential treatment as provided under applicable law.

The Department, the Office of the Attorney General of the Commonwealth of Virginia, the federal Department of Health and Human Services, and/or their duly authorized representatives shall be allowed access to evaluate through inspection or other means, the quality, appropriateness, and timeliness of services performed under this Contract.

## **11.2 Access To and Retention of Records**

In addition to the requirements outlined below, the Contractor must comply, and must require compliance by its subcontractors with the security and confidentiality of records standards.

### **11.2.1 Access to Records**

The Department, the Centers for Medicare and Medicaid Services, State and Federal auditors, or any of their duly authorized representatives shall have access to any books, fee schedules, documents, papers, and records of the Contractor and any of its subcontractors.

The Department, the Centers for Medicare and Medicaid Services, State and Federal auditors, or any of their duly authorized representatives, shall be allowed to inspect, copy, and audit any of the above documents, including, medical and/or financial records of the Contractor and its subcontractors.

### **11.2.2 Retention of Records**

The Contractor shall retain all records and reports relating to this Contract for a period of six (6) years after final payment is made under this Contract or in the event that this Contract is renewed six (6) years after the final payment. When an audit, litigation, or other action involving or requiring access to records is initiated prior to the end of said period, however, records shall be maintained for a period of six (6) years following resolution of such action or longer if such action is still ongoing. Copies on microfilm or other appropriate media of the documents contemplated herein may be substituted for the originals provided that the microfilming or other duplicating procedures are reliable and are supported by an effective retrieval system which meets legal requirements to support litigation, and to be admissible into evidence in any court of law.

## **11.3 Advertising**

In the event a contract is awarded for services resulting from this proposal, no indication of such sales or services to DMAS will be used in product literature or advertising without prior written permission from DMAS. The Contractor shall not state in any of its advertising or product

literature that the Commonwealth of Virginia or any Department or institution of the Commonwealth has purchased or uses its products or services without prior written permission from DMAS. DMAS must approve any advertising, marketing or press release connected with this contract.

#### **11.4 Audit**

The Contractor shall retain all books, records, and other documents relative to this contract for six (6) years after final payment, or longer if audited by the Commonwealth of Virginia, whichever is sooner. The Department, its authorized agents, and/or State auditors shall have full access to and the right to examine any of said materials during said period.

#### **11.5 Award**

Selection shall be made of two or more Offerors who are deemed to be fully qualified and best suited among those submitting proposals on the basis of the evaluation factors included in the Request for Proposals, including price, if so stated in the Request for Proposals. Negotiations shall be conducted with the Offerors so selected. Price shall be considered, but need not be the sole determining factor. After negotiations have been conducted with each Offeror so selected, the agency shall select the Offeror which, in its opinion, has made the best proposal, and shall award the contract to that Offeror. DMAS may cancel this Request for Proposals or reject proposals at any time prior to an award, and is not required to furnish a statement of the reasons why a particular proposal was not deemed to be the most advantageous (*Code of Virginia*, § 2.2-4359(D)). Should DMAS determine in writing and in its sole discretion that only one Offeror is fully qualified, or that one Offeror is clearly more highly qualified than the others under consideration, a contract may be negotiated and awarded to that Offeror. The award document will be a contract incorporating by reference all the requirements, terms and conditions of the solicitation and the Contractor's proposal as negotiated.

#### **11.6 Best and Final Offer**

At the conclusion of negotiations, the Offeror(s) may be asked to submit in writing, a Best and Final Offer (BAFO). After the BAFO is submitted, no further negotiations shall be conducted with the Offeror(s). The Offeror's proposal will be rescored to combine and include the information contained in the BAFO. The decision to award will be based on the final evaluation including the BAFO.

#### **11.7 Termination**

This Contract may be terminated in whole or in part:

- a. By the Department, for convenience, with not less than ninety (90) days prior written notice, which notice shall specify the effective date of the termination,
- b. By the Department, in whole or in part, if funding from Federal, State, or other sources is withdrawn, reduced, or limited;
- c. By the Department if the Department determines that the instability of the Contractor's financial condition threatens delivery of services and continued performance of the

- Contractor's responsibilities; or
- d. By the Department if the Department determines that the Contractor has failed to satisfactorily perform its contracted duties and responsibilities.
  - e. Failure of the Contractor to identify overpayments that exceed a minimum of twice the contract costs may result in termination of the contract.

The Contractor shall not terminate this contract in part.

Each of these conditions for contract termination is described in the following paragraphs.

#### **11.7.1 Termination for Convenience**

The Contractor may terminate this Contract with or without cause, upon (90) days prior written notice to the Department. In addition, the Contractor may terminate the contract by opting out of the renewal clause. Any contract cancellation notice shall not relieve the Contractor of the obligation to deliver and/or perform on all outstanding services issued prior to the effective date of cancellation.

#### **11.7.2 Cancellation of Contract**

The Department reserves the right to cancel and terminate any resulting contract, in part or in whole, without penalty, upon 90 days written notice to the Contractor. Any contract cancellation notice shall not relieve the Contractor of the obligation to deliver and/or perform on all outstanding services issued prior to the effective date of cancellation.

#### **11.7.3 Termination for Unavailable Funds**

The Contractor understands and agrees that the Department shall be bound only to the extent of the funds available or which may become available for the purpose of this resulting Contract. When the Department makes a written determination that funds are not adequately appropriated or otherwise unavailable to support continuance of performance of this Contract, the Department shall, in whole or in part, cancel or terminate this Contract.

The Department's payment of funds for purposes of this Contract is subject to and conditioned upon the availability of funds for such purposes, whether Federal and/or State funds. The Department may terminate this Contract upon written notice to the Contractor at any time prior to the completion of this Contract, if, in the sole opinion of the Department, funding becomes unavailable for these services or such funds are restricted or reduced. In the event that funds are restricted or reduced, it is agreed by both parties that, at the sole discretion of the Department, this Contract may be amended. If the Contractor shall be unable or unwilling to provide covered services at reduced rates, the Contract shall be terminated.

No damages, losses, or expenses may be sought by the Contractor against the Department, if, in the sole determination of the Department, funds become unavailable before or after this Contract between the parties is executed. A determination by the Department that funds are not

appropriated or are otherwise inadequate or unavailable to support the continuance of this Contract shall be final and conclusive.

#### **11.7.4 Termination Because of Financial Instability**

In the event the Contractor becomes financially unstable to the point of threatening the ability of the Department to obtain the services provided for under the Contract, ceases to conduct business in the normal course, makes a general assignment for the benefit of creditors, or suffers or permits the appointment of a receiver for its business or assets, the Department may, at its option, immediately terminate this Contract effective at the close of business on a date specified by the Department. In the event the Department elects to terminate the Contract under this provision, the Contractor shall be notified in writing, by either certified or registered mail, specifying the date of termination. The Contractor shall submit a written waiver of the licensee's rights under the Federal bankruptcy laws.

In the event of the filing of a petition in bankruptcy by a principal network provider or subcontractor, the Contractor shall immediately so advise the Department. The Contractor shall ensure that all tasks that have been delegated to its subcontractor(s) are performed in accordance with the terms of this Contract.

#### **11.7.5 Termination for Default**

The Department may terminate the Contract, in whole or in part, if the Department determines that the Contractor has failed to satisfactorily perform its duties and responsibilities under this Contract and is unable to cure such failure within a reasonable period of time as specified in writing by the Department, taking into consideration the gravity and nature of the default. Such termination shall be referred to herein as "Termination for Default."

Upon determination by the Department that the Contractor has failed to satisfactorily perform its duties and responsibilities under this Contract, the Contractor shall be notified in writing, by either certified or registered mail, of the failure and of the time period which has been established to cure such failure. If the Contractor is unable to cure the failure within the specified time period, the Department will notify the Contractor in writing within thirty (30) calendar days of the last day of the specified time period that the Contract has been terminated, in full or in part, for default. This written notice will identify all of the Contractor's responsibilities in the case of the termination, including responsibilities related to enrollee notification, network provider notification, refunds of advance payments, return or destruction of Department data and liability for medical claims.

In the event that DMAS determines that the Contractor's failure to perform its duties and responsibilities under this contract results in a substantial risk to the health and safety of Medicaid or FAMIS enrollees, DMAS may terminate this contract immediately without notice.

If, after notice of termination for default, it is determined by the Department or by a court of law that the Contractor was not in default or that the Contractor's failure to perform or make progress in performance was due to causes beyond the control of and without error or negligence on the



part of the Contractor or any of its subcontractors, the notice of termination shall be deemed to have been issued as a termination for the convenience of the Department, and the rights and obligations of the parties shall be governed accordingly.

In the event of termination for default, in full or in part, as provided for under this clause, the Department may procure from other sources, upon such terms and in such manner as is deemed appropriate by the Department, supplies or services similar to those terminated, and the Contractor shall be liable for any costs for such similar supplies and services and all other damages allowed by law. In addition, the Contractor shall be liable to the Department for administrative costs incurred to procure such similar supplies or services as are needed to continue operations. In the event of a termination for default prior to the start of operations, any claim the Contractor may assert shall be governed by the procedures defined by the Department for handling contract termination. Nothing herein shall be construed as limiting any other remedies that may be available to the Department.

In the event of a termination for default during ongoing operations, the Contractor shall be paid for any outstanding payments due less any assessed damages.

## **11.8 Remedies for Violation, Breach, or Non-Performance of Contract**

Upon receipt by the Department of evidence of substantial non-compliance by the Contractor with any of the provisions of this Contract or with State or federal laws or regulations the following remedies may be imposed.

### **11.8.1 Procedure for Contractor Noncompliance Notification**

In the event that the Department identifies or learns of noncompliance with the terms of this contract, the Department will notify the Contractor in writing of the nature of the noncompliance. The Contractor must remedy the noncompliance within a time period established by the Department and the Department will designate a period of time, not less than ten (10) calendar days, in which the Contractor must provide a written response to the notification. The Department may develop or may require the Contractor to develop procedures with which the Contractor must comply to eliminate or prevent the imposition of specific remedies.

### **11.8.2 Remedies Available to the Department**

The Department reserves the right to employ, at the Department's sole discretion, any and all remedies available at law or equity including but not limited to, payment withholds and/or termination of the contract.

## **11.9 Performance Bonds**

The Contractor shall deliver to the DMAS purchasing office an executed performance bond, in a form acceptable to DMAS, in the amount of one month of the estimated annual contract amount, with DMAS as obligee. The surety shall be a surety company or companies approved by the State Corporation Commission to transact business in the Commonwealth of Virginia. No

payment shall be due and payable to the Contractor, even if the contract has been performed in whole or in part, until the bonds have been delivered to and approved by DMAS.

### **11.10 Payment**

The Contractor shall be prepared to provide the full range of services requested under this RFP and resultant contract, on site and operationally ready to begin work by the implementation date established by DMAS. DMAS will provide adequate prior notice of at least 30 days of the implementation date. Upon approval of the Contractor's operational readiness and a determined start date (clarify), DMAS shall make payments as described in Section 7.

Each invoice submitted by the Contractor shall be subject to DMAS approval based on satisfactory performance of contracted services and compliance with all contract terms. The invoice shall contain the Federal tax identification number, the contract number and any other information subsequently required by DMAS.

### **11.11 Identification of Proposal Envelope**

If a special envelope is not furnished, or if return in the special envelope is not possible, the signed bid/proposal should be returned in a separate envelope or package, sealed and identified as follows:

From: _____	_____
Name of Offeror	Due Date /Time
_____	_____
Street or Box Number	City, State, Zip Code
_____	
RFP Number	

Name of Contract/Purchase Officer:

The envelope should be addressed as directed on Page 1 of the solicitation.

If a proposal not contained in the special envelope is mailed, the Offeror takes the risk that the envelope, even if marked as described above, may be inadvertently opened and the information compromised which may cause the proposal to be disqualified. Proposals may be hand delivered to the designated location in the office issuing the solicitation. No other correspondence or other proposals should be placed in the envelope.

### **11.12 Indemnification**

Contractor agrees to indemnify, defend and hold harmless the Commonwealth of Virginia, its officers, agents, and employees from any claims, damages and actions of any kind or nature,

whether at law or in equity, arising from or caused by the use of any materials, goods, or equipment of any kind or nature furnished by the Contractor/any services of any kind or nature furnished by the Contractor, provided that such liability is not attributable to the sole negligence of the using Department or to failure of the using Department to use the materials, goods, or equipment in the manner already and permanently described by the Contractor on the materials, goods or equipment delivered.

### **11.13 Small Businesses Subcontracting and Evidence of Compliance**

- A. It is the goal of the Commonwealth that 40% of its purchases be made from small businesses. This includes discretionary spending in prime contracts and subcontracts. All potential Offerors are required to submit a Small Business Subcontracting Plan (Attachment XI). Unless the Offeror is registered as a DMBE-certified small business and where it is practicable for any portion of the awarded contract to be subcontracted to other suppliers, the contractor is encouraged to offer such subcontracting opportunities to DMBE-certified small businesses. This shall not exclude DMBE-certified women-owned and minority-owned businesses when they have received DMBE small business certification. No Offeror or subcontractor shall be considered a Small Business, a Women-Owned Business or a Minority-Owned Business unless certified as such by the Department of Minority Business Enterprise (DMBE) by the due date for receipt of proposals. If small business subcontractors are used, the prime contractor agrees to report the use of small business subcontractors by providing the purchasing office at a minimum the following information: name of small business with the DMBE certification number, phone number, total dollar amount subcontracted, category type (small, women-owned, or minority-owned), and type of product/service provided.
- B. Each prime contractor who wins an award in which provision of a small business subcontracting plan is a condition of the award, shall deliver to the contracting agency or institution on a quarterly basis, evidence of compliance (subject only to insubstantial shortfalls and to shortfalls arising from subcontractor default) with the small business subcontracting plan. When such business has been subcontracted to these firms and upon completion of the contract, the contractor agrees to furnish the purchasing office at a minimum the following information: name of firm with the DMBE certification number, phone number, total dollar amount subcontracted, category type (small, women-owned, or minority-owned), and type of product or service provided. Payment(s) may be withheld until compliance with the plan is received and confirmed by the agency or institution. The agency or institution reserves the right to pursue other appropriate remedies to include, but not be limited to, termination for default.
- C. Each prime contractor who wins an award valued over \$200,000 shall deliver to the contracting agency or institution on a quarterly basis, information on use of subcontractors that are not DMBE-certified small businesses. When such business has been subcontracted to these firms and upon completion of the contract, the contractor agrees to furnish the purchasing office at a minimum the following information: name of firm, phone number, total dollar amount subcontracted, and type of product or service provided.

#### **11.14 Prime Contractor Responsibilities**

The Contractor shall be responsible for completely supervising and directing the work under this contract and all subcontractors that it may utilize, using its best skill and attention. Subcontractors who perform work under this contract shall be responsible to the prime Contractor. The Contractor agrees that it is as fully responsible for the acts and omissions of its subcontractors and of persons employed by it as it is for the acts and omissions of its own employees.

#### **11.15 Renewal of Contract**

This contract may be renewed by the Commonwealth upon written agreement of both parties for three successive one-year periods, under the terms of the current contract, and at a reasonable time (approximately 90 days) prior to the expiration. Costs shall be a negotiation factor during contract renewal periods.

#### **11.16 Confidentiality of Information**

By submitting a proposal, the Contractor agrees that information or data obtained by the Contractor from DMAS during the course of determining and/or preparing a response to this RFP may not be used for any other purpose than determining and/or preparing the Contractor's response. Such information or data may not be disseminated or discussed for any reasons not directly related to the determination or preparation of the Contractor's response to this RFP.

#### **11.17 HIPAA Compliance**

The Contractor shall comply, and shall ensure that any and all subcontractors comply, with all State and Federal laws and Regulations with regards to handling, processing, or using Health Care Data. This includes but is not limited to the Health Insurance Portability and Accountability Act of 1996 (HIPAA) regulations as it pertains to this agreement, and the Contractor shall keep abreast of the regulations. Since this is a federal law and the regulations apply to all health care information, the Contractor shall comply with the HIPAA regulations at no additional cost to DMAS. The Contractor shall also be required to enter into a DMAS-supplied HIPAA Business Associate Agreement with DMAS to comply with the regulations protecting Health Care Data. A template of this Agreement is available on the DMAS Internet Site at <http://www.dmas.virginia.gov/hpa-home.htm>.

#### **11.18 Obligation of Contractor**

By submitting a proposal, the Contractor covenants and agrees that it has satisfied itself of the conditions to be met, and fully understands its obligations, and that it will have no right to cancel its proposal or to relief of any other nature because of its misunderstanding or lack of information.

### **11.19 Independent Contractor**

Any Contractor awarded a contract under this RFP shall be considered an independent Contractor, and neither the Contractor, nor personnel employed by the Contractor, is to be considered an employee or agent of DMAS.

### **11.20 Ownership of Intellectual Property**

All copyright and patent rights to all papers, reports, forms, materials, creations, or inventions created or developed in the performance specific to this contract shall become the sole property of the Commonwealth. On request, the Contractor shall promptly provide an acknowledgement or assignment in a tangible form satisfactory to the Commonwealth to evidence the Commonwealth's sole ownership of specifically identified intellectual property created or developed in the performance of the contract.

### **11.21 Subsidiary-Parent Relationship**

In the event the Offeror is a subsidiary or division of a parent organization, the Offeror must include in the proposal, a signed Statement by the chief executive officer of the parent organization pledging the full resources of the parent organization to meet the responsibilities of the subsidiary organization under contract to DMAS. DMAS must be notified within 10 days of any change in ownership. Any change in ownership shall not relieve the original parent of its obligation of pledging its full resources to meet the obligations of the contract with DMAS without the expressed written consent of the DMAS Director.

### **11.22 eVA Business-To-Government Contracts and Orders**

The solicitation/contract will result in 1 purchase order(s) with the eVA transaction fee specified below assessed for each order.

- a. For orders issued prior to August 16, 2006, the Vendor Transaction Fee is 1%, capped at a maximum of \$500 per order.
- b. For orders issued August 16, 2006 and after, the Vendor Transaction Fee is:
  - (i) DMBE-certified Small Businesses: 1%, Capped at \$500 per order.
  - (ii) Businesses that are not DMBE-certified Small Businesses: 1%, Capped at \$1,500 per order.

The eVA transaction fee will be assessed approximately 30 days after each purchase order is issued. Any adjustments (increases/decreases) will be handled through eVA change orders.

Internet electronic procurement solution, website portal [www.eva.virginia.gov](http://www.eva.virginia.gov), streamlines and automates government purchasing activities in the Commonwealth. The portal is the gateway for vendors to conduct business with state agencies and public bodies.

Vendors desiring to provide goods and/or services to the Commonwealth shall participate in the eVA Internet e-procurement solution and agree to comply with the following:

If this solicitation is for a term contract, failure to provide an electronic catalog (price list) or index page catalog for items awarded will be just cause for the Commonwealth to reject your bid/offer or terminate this contract for default. The format of this electronic catalog shall conform to the eVA Catalog Interchange Format (CIF) Specification that can be accessed and downloaded from [www.eVA.virginia.gov](http://www.eVA.virginia.gov). Contractors should email Catalog or Index Page information to [eVA-catalog-manager@dgs.virginia.gov](mailto:eVA-catalog-manager@dgs.virginia.gov).

### **11.23 Compliance with Virginia Information Technology Accessibility Standard**

The Contractor shall comply with all State laws and Regulations with regards to accessibility to information technology equipment, software, networks, and web sites used by blind and visually impaired individuals. This accessibility standards are found at §§ 2.2-3502 and 2.2-3503 of the Code of Virginia. Since this is a State law and the regulations apply to accessibility to information technology equipment, software, networks, and web sites used by blind and visually impaired individuals, the Contractor shall comply with the Accessibility Standards at no additional cost to DMAS. The Contractor must also keep abreast of any future changes to The Virginia Code as well as any subsequent revisions to the Virginia Information Technology Standards. The current Virginia Information Technology Accessibility Standards are published on the Internet at

<http://www.vita.virginia.gov/docs/websiteStandards.cfm>

**ATTACHMENT I****REFERENCES****RFP 2008-07** Reference Form:

Contract Name:	
Customer name and address:	
Customer contact and title:	
Contact Phone number:	
Scope of Services of Contract:	
Contract Type (fixed price, fee for service, capitation, etc):	
Contract Size (# of providers served , # of participants served, etc):	
Amount Recovered:	
Contract Period:	
Number of Contractor staff assigned to contract:	
Any legal or adverse contractual actions against the Offeror related to the project:	
Annual Value of Contract:	

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Signature of State Official

---

Date

## ATTACHMENT II

### Small Business Subcontracting Plan

#### Definitions

**Small Business:** "Small business " means an independently owned and operated business which, together with affiliates, has 250 or fewer employees, or average annual gross receipts of \$10 million or less averaged over the previous three years. Note: DMBE-certified women- and minority-owned businesses shall also be considered small businesses when they have received DMBE small business certification.

**Women-Owned Business:** Women-owned business means a business concern that is at least 51% owned by one or more women who are citizens of the United States or non-citizens who are in full compliance with United States immigration law, or in the case of a corporation, partnership or limited liability company or other entity, at least 51% of the equity ownership interest is owned by one or more women who are citizens of the United States or non-citizens who are in full compliance with United States immigration law, and both the management and daily business operations are controlled by one or more women who are citizens of the United States or non-citizens who are in full compliance with the United States immigration law.

**Minority-Owned Business:** Minority-owned business means a business concern that is at least 51% owned by one or more minority individuals or in the case of a corporation, partnership or limited liability company or other entity, at least 51% of the equity ownership interest in the corporation, partnership, or limited liability company or other entity is owned by one or more minority individuals and both the management and daily business operations are controlled by one or more minority individuals.

**All small businesses must be certified by the Commonwealth of Virginia, Department of Minority Business Enterprise (DMBE) to participate in the SWAM program. Certification applications are available through DMBE online at [www.dmbv.virginia.gov](http://www.dmbv.virginia.gov) (Customer Service).**

**Bidder/Offeror Name:** \_\_\_\_\_

**Preparer Name:** \_\_\_\_\_ **Date:** \_\_\_\_\_



## Instructions

- A. If you are certified by the Department of Minority Business Enterprise (DMBE) as a small business, complete only Section A of this form. This shall include DMBE-certified women-owned and minority-owned businesses when they have received DMBE small business certification.
- B. If you are not certified by DMBE as a small business and plan to subcontract part of this contract with a DMBE certified small business, complete only Section B of this form.
- .

## Section A

If your firm is certified by the Department of Minority Business Enterprise (DMBE), are you certified as a (**check only one below**):

\_\_\_\_\_ Small Business

\_\_\_\_\_ Small and Women-owned Business

\_\_\_\_\_ Small and Minority-owned Business

Certification Number: \_\_\_\_\_ Certification Date: \_\_\_\_\_

**Section B**

Populate the table below to show your firm's plans for utilization of DMBE-certified small businesses in the performance of this contract. This shall include DMBE-certified women-owned and minority-owned businesses that meet the small business definition and have received the DMBE small business certification. Include plans to utilize small businesses as part of joint ventures, partnerships, subcontractors, suppliers, etc.

**B. Plans for Utilization of DMBE-Certified Small Businesses for this Procurement**

<b>Small Business Name &amp; Address</b> <b>DMBE Certificate #</b>	<b>Status if Small Business is also: Women (W), Minority (M)</b>	<b>Contact Person, Telephone &amp; Email</b>	<b>Type of Goods and/or Services</b>	<b>Planned Contract Involvement</b>	<b>Planned <u>Annual</u> Contract Dollar Expenditure Amount</b>
<b>Totals \$</b>					

**ATTACHMENT III****Cost Proposal: Offeror's Cost Details for Pricing Provider Auditing Services (RFP 2008-07)****Proposed Recovery** \_\_\_\_\_

<b>Provider Auditing Services</b>						
<b><u>Direct Costs</u></b>		<b><u>Year 1</u></b>	<b><u>Year 2</u></b>	<b><u>Year 3</u></b>		<b><u>TOTAL</u></b>
<b><u>Labor</u></b> (by Individual or staff category)						
<u>Subtotal Labor</u>						
<u>Benefits</u>						
<b>Total Labor</b>						
<u>Rent</u>						
<u>Travel</u>						
<u>Depreciation</u>						
<u>Equipment</u>						
<u>Furniture</u>						
<u>Office Supplies</u>						
<u>Software</u>						
<u>Temporary Help</u>						
<u>Recruitment</u>						
<u>Postage/Delivery</u>						
<u>Telephone/Fax</u>						
<u>Parking</u>						
<u>Misc (detailed)</u>						
<b>Total Other Direct</b>						
<b><u>TOTAL</u></b>						

**Note:** General and Administrative and other indirect costs must be included in the direct cost figures. (DMAS will not consider G&A or other fees as a separate line item.)

DMAS would like the Contractor to provide pricing based on the minimums established in section 3.3.

As indicated any changes to audit quotas shall be negotiated by the parties in good faith and considered a contract modification under section 10.15 of this RFP.